

HOUSE OF REPRESENTATIVES

Monday, December 16, 2019

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from the hon. Cherrie-Ann Crichlow-Cockburn, MP, Member for Lopinot/Bon Air West; Dr. Surujrattan Rambachan, MP, Member for Tabaguite; and Mr. Barry Padarath, MP, Member for Princes Town who have requested leave of absence from today's sitting of the House. The leave which the Members seek is granted.

JOINT SELECT COMMITTEE**(APPOINTMENT OF)**

Madam Speaker: Hon. Members, correspondence has been received from the Vice-President of the Senate dated December 16, 2019, which states as follows:

“Dear Speaker,

Re: Establishment of Joint Select Committees

Reference is made to your letter dated December 12, 2019 on the subject at caption.

I wish to advise that at a Sitting held on Friday December 13, 2019, the Senate concurred with the House of Representatives on the establishment of a Joint Select Committee to consider and report by February 29, 2020 on the Cannabis Control Bill, 2019, and the following six (6) Senators were appointed to serve:

1. Mr. Clarence Rambharat
2. Mr. Nigel De Freitas

3. Mrs. Paula Gopee-Scoon
4. Mr. Taharqa Obika
5. Mr. Paul Richards
6. Ms. Sophia Chote, SC

Accordingly, I respectfully request that the House of Representatives be informed of these decisions at the earliest convenience please.

Respectfully,

Senator Nigel De Freitas

Vice-President of the Senate”

**RELOCATION TO THE RED HOUSE
AND CABILDO PARLIAMENT COMPLEX**

Madam Speaker: As Members are well aware, the Red House is the home of Trinidad and Tobago’s Parliament and the seat of democracy. This monumental and historic building required urgent restoration and as some Members may recall, in 2011, a decision was made to temporally relocate both Houses of Parliament and all supporting facilities and offices to our current location at Tower D, Port of Spain International Waterfront Centre, 1A Wrightson Road, Port of Spain.

I am pleased to advise that we have been informed that the restoration of the Red House and the refurbishment of the adjacent Cabildo Parliament Complex will be completed by December 31, 2019. [*Desk thumping*] This means that over the next six weeks, the process of relocating the Parliament of Trinidad and Tobago, its auxiliary facilities and staff from Tower D to the Red House and the adjacent Cabildo Parliament Complex will take place.

As you would appreciate, this arduous task will require all of Parliament’s resources, particularly its staff to ensure smooth transition back to the Red House. Members are therefore asked to note that relocation will result in a temporary

disruption of the auxiliary services which are usually at our disposal. Please bear in mind that sittings of both Houses and committee meetings will stand adjourned and administrative services may become temporarily unavailable during this six-week transition period. However, it is anticipated that the move and a resumption of all our processes and services should be completed by Monday, January 20, 2020. I wish to assure all Members that the Clerk of the House will make every effort to apprise you of all available information and details during this transient disruption as the Parliament of Trinidad and Tobago returns to its home at the restored Red House.

It will not only be remiss of me but also unforgivable if I neglect to express on our collective behalf, our heartfelt appreciation to the Clerk of the House of Representatives, the Acting Clerk of the Senate and the staff of the Parliament of Trinidad and Tobago who will be required to sacrifice their total immersion in the merriment of the Christmas holiday season and the society of their family and friends to complete this relocation project. We thank them. [*Desk thumping*]

PAPERS LAID

1. Delegation Report on the 64th Commonwealth Parliamentary Conference, held in Kampala, Uganda from September 22 to 29, 2019. [*The Parliamentary Secretary in the Ministry of Public Utilities (Mr. Adrian Leonce)*]
2. Ministerial Response of the Ministry of Housing and Urban Development to the Seventeenth Report of the Public Administration and Appropriations Committee on an Examination into the expenditure and internal controls of the East Port of Spain Development Company Limited. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]

3. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Twentieth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance Sheets and other Financial Statements of the Palo Seco Agricultural Enterprises Limited for the financial years 2012 to 2017. [*Hon. C. Robinson-Regis*]
4. Ministerial Response of the Ministry of Finance to the Twentieth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance Sheets and other Financial Statements of the Palo Seco Agricultural Enterprises Limited for the financial years 2012 to 2017. [*Hon. C. Robinson-Regis*]
5. Ministerial Response of the Ministry of Finance to the Sixth Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into the Implementation of the new Public Procurement System. [*Hon. C. Robinson-Regis*]
6. Ministerial Response of the Ministry of Finance to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the InvesTT Limited for the years 2014 to 2017. [*Hon. C. Robinson-Regis*]
7. Ministerial Response of the Office of the Prime Minister to the Eleventh Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Status of the Implementation of the Recommendations of the Third Report of the Joint Select Committee on Human Rights, Equality and Diversity into the Treatment of Child Offenders. [*Hon. C. Robinson-Regis*]

8. Report of the Central Bank of Trinidad and Tobago with respect to the progress of the Proposals to Restructure CLICO, BAT and CIB for the quarter ended September 30, 2019. [*Hon. C. Robinson-Regis*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Constitution (Amdt.) (Tobago Self-Government) Bill, 2018

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

Thank you very kindly. Madam Speaker, I have the honour to present:

Interim Report of the Joint Select Committee appointed to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018, in the Fifth Session, Eleventh Parliament.

Cybercrime Bill, 2017

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

Madam Speaker, I have the honour to present:

Interim Report of the Joint Select Committee appointed to consider and report on the Cybercrime Bill, 2017 in the Fifth Session, Eleventh Parliament.

URGENT QUESTIONS

Couva West Secondary School

(Resumption of Classes)

Mr. David Lee (Pointe-a-Pierre): Thank you, Madam Speaker. On behalf of the Member for Couva South to the Minister of Education: Given that the Couva West Secondary School remained closed despite the Minister's response to an Urgent Question on November 15, 2019, that classes will resume on November 20, 2019, could the Minister state whether classes will resume on January 06, 2020?

The Minister of Education (Hon. Anthony Garcia): Thank you very much,

Madam Speaker. On November the 15th, 2019, I indeed reported that classes at the Couva West Secondary School were expected to resume on November the 20th, 2019, since at that time, repairs were almost 70 per cent completed. However, it was subsequently discovered that the water-proofing membrane on Blocks B1 and B2 was not wholesome and leaking. The intricate and extensive nature of the work coupled with the inclement weather caused even further delays. The contractor has since been working to correct this and I have been informed that the repair works are almost 90 per cent completed. Madam Speaker, in these circumstances, it is anticipated that classes will resume on January the 6th, 2020, at the Couva West Secondary School. Thank you very much.

Madam Speaker: Member for Couva North.

Ms. Ramdial: Thank you, Madam Speaker. Minister, given your misleading statements on the 15th, what—

Madam Speaker: No, Member, I am sorry. “Misleading” is inappropriate, I would not allow that. So just withdraw it and I will allow you to continue or rephrase your question.

Ms. Ramdial: Sure, I withdraw, Madam Speaker. Minister, what are the findings of the air quality test done by CARIRI that you made reference to on November the 15th?

Hon. A. Garcia: Madam Speaker, this question did not arise as a matter of urgent questions and therefore, I do not have the information with me now. This is something totally new.

Madam Speaker: Member for Chaguanas East.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, could you tell us how long this school has been under repair and how do you propose—

Madam Speaker: One question, please.

Mr. Karim: Sorry, and then I will ask a follow-up. How long now has this school been closed for repairs?

Hon. A. Garcia: Madam Speaker, the school has been closed some time in November because of the—

Ms. Ramdial: No, October.

Hon. A. Garcia: Okay, October, I will not dispute that with you. The problem first was with mould on the walls. We have since corrected that and as I said just now, it was discovered that the water-proofing membrane was leaking and as a result the school could not continue. The contractor is working expeditiously to correct this. Thank you.

Madam Speaker: Hon. Members, I have been advised that Questions 2, 3 and 4 by agreement have been deferred and would be taken later in today's proceedings.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. There are no questions for oral answer and we are asking that the three questions for written reply be deferred.

Madam Speaker: And for how long?

Hon. C. Robinson-Regis: Madam Speaker, in the normal course we would ask for two weeks but given what you just announced, I am not sure but I can ask for two weeks.

Madam Speaker: All right, so the questions are deferred until, I would say, the next sitting.

DEFINITE URGENT MATTER

(LEAVE)

Flooding in Penal/Debe and Other Areas

(Emergency Disaster Relief)

UNREVISED

Mrs. Christine Newallo-Hosein (*Cumuto/Manzanilla*): Thank you, Madam Speaker. I hereby seek leave to move the adjournment of the House at today's sitting for the purpose of discussing a definite matter of urgent public importance, namely the need for the Government to declare Penal/Debe and other areas severely affected by the recent catastrophic flooding as "disaster zones", and the need for Government to expeditiously implement emergency disaster relief and compensation to those affected.

The matter is definite as thousands of residents have been marooned for days, including the elderly and the infirmed as well as pregnant women. The matter is urgent as citizens' homes have suffered water and flood damage and business owners and farmers have suffered irreplaceable damage to their livestock and property.

The matter is of public importance given the size of the affected area and the thousands of citizens who are now at severe risk of the public health and environmental hazards in the immediate aftermath of this disaster. I thank you, Madam Speaker. [*Desk thumping*]

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

JOINT SELECT COMMITTEES

Constitution (Amdt.) (Tobago Self-Government) Bill, 2018

(Extension of Time)

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, again. Madam Speaker. Having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Constitution (Amdt.) (Tobago Self-Government) Bill, 2018, I beg to move that the Committee be allowed an extension of five months in order to complete its work

and submit a final report by May 27, 2020. Thank you.

Question put and agreed to.

Cybercrime Bill, 2017

(Extension of Time)

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

Madam Speaker, having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Cybercrime Bill, 2017, I beg to move that the Committee be allowed an extension of three months in order to complete its work and submit a final report by March 31, 2020. Thank you, Madam Speaker.

Question put and agreed to.

Cannabis Control Bill, 2019

(Appointment of)

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

Thank you, again, Madam Speaker. Having regard to the correspondence from the Vice-President of the Senate in relation to the Joint Select Committee appointed to consider and report on the Cannabis Control Bill, 2019, I beg to move that this House appoint the following Members to serve on the committee:

Mr. Faris Al-Rawi

Mr. Stuart Young

Mr. Fitzgerald Hinds

Mr. Terrence Deyalsingh

Dr. Tim Gopeesingh

Mr. Rushton Paray.

Question put and agreed to.

SUSPENSION OF STANDING ORDER 64(1)(a)

ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS)

UNREVISED

(AMDT.) (NO. 3) BILL, 2019

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, in accordance with Standing Order 122(1), I beg to move for the suspension of Standing Order 64(1)(a) to permit the moving of the second reading of the Administration of Justice (Indictable Proceedings) (Amdt.) (No. 3) Bill, 2019.

Question put and agreed to.

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I beg to move: That a Bill to amend the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011), be now read a second time.

Thank you, Madam Speaker. I was just grabbing some papers and being sure that we are ready. We are at the cusp of delivering into certainty something which our jurisdiction has flirted with for nearly 103 years. In 1917, the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, being Act No. 12 of 1917, came into existence. That particular piece of law is, in fact, the main law, I must say, to treat with something referred to as preliminary enquiries. This concept of preliminary enquiries was brought over from our English experience. Certainly we do all recall in terms of history, in terms of legal education, the Marian Committal Statute of 1555, the Prisoners' Counsel Act of 1836, the Indictable Offences Act otherwise known as the Sir John Jervis Act of 1848. Those were the pieces of law that birthed our 1917 law which stands on the books of Trinidad and Tobago today. Back in 1960, Lord Devlin referred to the process of preliminary enquiries as an ossified form of regulation which we laboured under. Let me repeat that. In 1960, Lord Devlin then described the English process of preliminary enquiries as an ossified form of regulation under which we laboured.

What is a preliminary enquiry? A preliminary enquiry effectively is a chance for an accused person to come before a court and have a case put so that he can know, on the one hand, what the case is and secondly, on the other hand, have a chance or opportunity to probe the case. That system was intended to allow an accused person the opportunity to advance before the court that certain cases just did not pass muster. The passing of muster meant that you should at least have a prima facie case. What is a prima facie case? It is a case which a jury, if properly directed, could convict someone in relation to an offence alleged to have been committed. That process of preliminary enquiries has received a lot of attention from successive governments.

In the 1990s and certainly in the year 2000 onward, successive governments sought to amend the preliminary enquiries approach and in particular, to introduce something called paper committals. The paper committal process was intended to usher preliminary enquiries to a state where the accused would receive the documentary evidence of the case supposedly made out against him, the presiding officer, in this case, a magistrate, would look to those proceedings and effectively either say there is a case to answer, in which case you go for an indictment before the High Court in the Assizes, or if it is a summary case to be made out, you stand and hear that before the magistrate. If there is no case to answer at all, then the matter would have been the subject of a discharge by way of an application from the accused.

The 1917 Act allows the Director of Public Prosecutions a formula under section 23 to consider whether he, notwithstanding a court's discharge of the proceedings at the preliminary enquiry stage, whether he, in exercise of his constitutional power under section 90 of the Constitution, wishes a second bite at

the cherry, so to put and to allow for the matter to go directly to the High Court. Section 90 of the Constitution is the place where we locate the Director of Public Prosecutions. The Director of Public Prosecutions has three very certain powers: the power to indict, the power to basically remove someone from the prospect of prosecution, it is called a nolle pros—nolle prosequi in the long form—or the power, in fact, to intervene in any situation and take over prosecutions. That is what the power of the Director of Public Prosecutions is. The Director of Public Prosecutions has certain statutory powers found in this Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, that is the 1917 law, in particular in section 22 and in section 23 of that Act.

Our experience as a country saw us in 2011 introduce in the Tenth Republican Parliament, the Administration of Justice (Indictable Proceedings) Act, 2011. That was assented to on December 16, 2011; it followed the St. Lucia model. In that model, we said as a Parliament, with unanimous support coming from both sides of the House, then PNM Opposition and UNC Government, we said it is high time to abolish preliminary enquiries, to go through this process. This process involves an initial hearing. The initial hearing is where you come before a Master of a court. A Master is a creature designed to case manage matters. You move away from the magistrates, you go to the Masters. An initial hearing happens under section 11 of the Act. At the initial hearing, they case manage, you come under the section 19 provisions, you have something referred to as a sufficiency hearing. In the sufficiency hearing, the Master says there is an indictable matter to be had, send it to the High Court; there is a summary offence to be tried, send it to the Magistrates' Court.

That law—and I will skip past the usual drama of section 34, et cetera, that law

was not properly considered or implemented. We did have the proclamation of section 34, we unwound that position. Then in 2014, we had a change of gears as a country. In 2014, we went with the Antigua model where we were keeping the magistrates to do committal proceedings, again, to abolish preliminary enquiries. That was assented to as well. It was never proclaimed and then we as a country saw, in the turn of Government with the introduction of the current Government, an attempt to completely abolish the route via proposals which we laid in 2016/2017 to just simply allow the DPP to do the prospect of indictment.

Madam Speaker, suffice it to say, in the criminal justice reform that we were engaged in, we reverted to a position of using the 2011 law, specifically because we introduced Masters, we introduced Criminal Procedure Rules and we opened the Criminal Division in several courts, and as you have just announced a little while ago, this building is to be vacated by the Parliament which will yield an entire court for the civil jurisdiction and give us 70 more criminal courts in the position of criminal justice reform. [*Desk thumping*]

Madam Speaker, it is now a matter of record that we came to this Parliament twice, starting in 2018, and then again in 2019, and what we did was to ask the Parliament to amend this 2011 law by two particular rounds of amendments. Those two particular rounds involved us, first of all, taking the benefit of the work which we considered useful in our incarnation of 2016/2017 amendments, apply that into gear, because the 2011 Bill was deficient. It did not take care of matters which were triable either way, it did not contemplate if somebody was charged with both an indictable and a summary offence, so we came up with the entire process flow and formulation of moving with mixed charges, indictable and summary, how we dealt with election, how we dealt with coming before the court,

how we dealt with search warrants, how we dealt with the DPP's powers. Those were in essence the core arrangements in Act No. 3 of 2019 which we began in 2018.

2.00p.m.

When moved to the second round of amendments, there was need for further pruning, which came about from consultations with the Bar. In particular, Mrs. Pamela Elder SC, made certain observations which we as a Parliament moved and we birthed the Administration of Justice (Amdt.) (No. 2) law, if I call it in short form.

Madam Speaker, what happened next is we as a Government, prior to proclamation of laws, sit with stakeholders, and stakeholders in the person of the Judiciary, the Director of Public Prosecutions, the Trinidad and Tobago Police Service, the members of the legal fraternity in the Law Association and the Criminal Bar. We sat for several months with the Judiciary, with an entire team of judicial officers: Appellate Judges, High Court Judges, Masters, Registrar, and IT technicians of the court. We sat with the Office of the Director of Public Prosecutions, with the Director of Public Prosecutions himself, Mr. Roger Gaspard SC, and his Queen's Counsel, Mr. Edward Jenkins. We also sat with the Legal Division of the Trinidad and Tobago Police Service.

In October, we wrote to the Law Association and Criminal Bar Association. We have received no comments from them. But the net effect of the discussions with the Judiciary, the police, and DPP is a requirement for one last round of amendments, because the DPP and the Judiciary have confirmed to us that consequent upon these amendments coming into law, we will, by January 2020, be able to abolish preliminary enquiries. [*Desk thumping*] That, Madam Speaker,

puts into context the work that we as a Parliament will be able to do and how we will be able to birth laws into existence in Trinidad and Tobago.

Madam Speaker, with that said, let us get to the underpinnings of constitutionality. Let us get to the conditions of this Bill. Let us start off with what Trinidad and Tobago looks like, in terms of preliminary enquiries.

Madam Speaker, every year in the Magistracy we have approximately 146,000 cases being dealt with by magistrates. Of the 146,000 cases, 104,000 of those cases are motor vehicle and road traffic. Approximately 26,000 cases a year are cases to deal with preliminary enquiries. Approximately 8,000 cases or 8,500 are cannabis-related cases alone. We propose to remove all of those cases and leave roughly only 8,000 cases before 43 magistrates. I have confirmed that for 2014/2015, 26,342 cases were in backlog at the Magistracy; 2015 to 2016, 24,745; 2016 to 2017, 25,531; 2017 to 2018, 27,124. That averages anywhere at lowest to 77 per cent of the backlog of pending preliminary enquiries to up to as much as 85 per cent of the backlog.

Madam Speaker, in this backlog we have a tragedy to the people of Trinidad and Tobago. Number one, the victim is brought to court for up to 10 to 20 years in a pretrial process, where you try to see if there is enough evidence to put someone on trial, 20 years of pretrial investigation.

In that context, not only is the victim prejudiced but the accused is prejudiced because the accused is denied a day in court. Worse yet for an innocent accused who may be remanded into custody, in circumstances where bail may have been granted but there was no opportunity to accept the bail, because the person was simply in a position of being able to afford the bail, in this country, in our prison system, we have people on pretrial matters for up to 20 years. Imagine

being incarcerated to see if you have a trial for 20 years and then get to trial. Witnesses are prejudiced. The judicial officers are prejudiced. The investigating officers are prejudiced and justice is effectively denied. Justice delayed is certainly not justice delivered.

Madam Speaker, in those circumstances, we took the opportunity to look at the preliminary enquiries management. We are operationalizing at the same time that we are legislating. Madam Speaker, what we have done in the Bill before us now is to treat with, in the 23 sections in the Bills before us, we seek to treat with some very important amendments, which we believe strike at the heart of the delivery of justice.

If we look, Madam Speaker, clause 1 simply treats with the short title. It is of no effect. Clause 2 is where we ask for the definition of certain words to be done. What we are looking at here, and you will see it in clause 2, we are looking at the amendment of a few of the sections, and if you would permit me to just reflect upon that, we are, in clause 3, saying that we wish to amend the definition of "arrest warrant". Why do we wish to amend the definition of "arrest warrant"? The Act as it has been in law with the two amendments recently done by us, simply contemplates arrest warrants being issued under this Act alone. That in fact is not the case. It would be wrong for us to contemplate that people may be brought before the court only under this Act. After all, there are laws like the Proceeds of Crime Act, the Anti-Gang Act, the Dangerous Drugs Act, the Firearms Act; all of which have the ability for arrest warrants to be issued.

We then, Madam Speaker, looked to amend the definition of "documentary exhibit". And in particular, when we look at this definition of "documentary exhibit", Madam Speaker, we are contemplating specifically the instances of

complex fraud. I can tell you, Madam Speaker, that as a Government, in having facilitated the Trinidad and Tobago Police Service and the Office of the Director of Public Prosecutions, there are very large complex fraud matters that have been languishing for decades in this jurisdiction. Those matters contemplate millions of documents being tendered into evidence. And the ability to tender evidence in the old form system that this current Act contemplates, where you will have to mark every single exhibit by hand, is just to say that justice will never happen. Can you imagine marking two million exhibits by hand? We looked to the English jurisdiction. We found the precedent for admission of documentary evidence and, therefore, we contemplate not only how evidence is tendered and admitted, but also looking to the position of the definition of "documentary exhibits" and including the definition of devices by way of correlation.

Madam Speaker, the provisions of section 27 of the Act provide that the Minister may make certain amendments. We felt it prudent to identify who that Minister is. It is the Minister with responsibility for the criminal justice system. In this incarnation of Government it is the Attorney General and Minister of Legal Affairs. I am very pleased to tell you, Madam Speaker, that on the 4th of October, 2019, I caused an amendment to the Sixth Schedule of this Act, again in contemplation of the operationalization of this law. By that amendment, complex or serious fraud, money laundering, terrorism, gang-related activity, cybercrime, misbehaviour in public office and trafficking in persons were added to the Sixth Schedule. What does that mean? You cannot go to the court under the provisions of section 24 of the Act. If the DPP fails to start the case within one year of committing you, you cannot get a discharge on the ground of delay. We believe that that is too important a factor to allow someone in a serious complex fraud

matter or trafficking in persons, for example, or misbehaviour or money laundering to ask for a technical discharge on the ground of a one year failure.

Madam Speaker, we seek to amend the definition of “summons”. It is really only a mere drafting aspect of the summons. We then go to clause 4. Madam Speaker, very importantly in clause 4, we recognize that the law acts prospectively. However, we have the benefit of recent judgments which fell to consider when law applies. We felt it important to not allow the baby to be thrown away with the proverbial bathwater. We thought it prudent to specifically preserve the DPP's power to proffer a voluntary Bill of indictment as set out in section 6(3). The DPP can act in circumstances by himself, in saying in cases where a judge has retired, a judge falls ill, it is a case of complex fraud. The DPP has, in line with his constitutional authority in section 90 of the Constitution, he has the ability to keep those matters for reference directly for indictment to the High Court.

Madam Speaker, clause 5 adds in an aircraft into places that you can search. We had omitted the concept of an aircraft. We are striking the word "ship", because it is included in “vessel”, but it is important to keep aircraft there. Madam Speaker, we are also in clause 5 allowing for a constable who is executing a search warrant to do that accompanied by other persons. What does that mean? By experts. In today's world we took what exists in the United States, in Canada, in the United Kingdom. We added in the fact that experts may need to accompany police officers. Those experts include forensics experts, computer experts, et cetera. Can you imagine under the Interception of Communications Act, or other pieces of law that you would not have experts? It is to allow for safeguards in due process and in the interest of justice. The equivalent can easily be found in section 16(2) of the English PACE Act.

Madam Speaker, we then go in clause 5 again, (1A), to make sure that we introduce a very powerfully important amendment. That is to allow a Master the opportunity to issue a search warrant for multiple premises, either for specified multiple premises or for all premises, and we do that in full reliance upon section 8 of the English PACE Act. That section 8 of the English PACE Act is where you can have multiple search warrants. It avoids the circumstance where justice can be defeated and where a policeman, in the course of executing a warrant, arrives at premises, finds out that the person really has a warehouse somewhere else, has to go back to get the search warrant and the information reaches those people already. This is anchored in the law of multiple jurisdictions. There are certain safeguards that ought to be introduced into the law. We propose an amendment to this clause, Madam Speaker. I have lifted from section 8(3) of the PACE law in the United Kingdom and I believe we need to put a few more safeguards into this law, which will be circulated at committee stage.

Madam Speaker, at clause 5, we also seek an amendment to section 2A. We are putting in further safeguards to owners of premises. Far too often we hear the complaint that the police arrive, they are in plain clothes and they do not identify themselves. You must identify yourself to the person you are searching, and that is the amendment that we cause in clause 5. It contemplates, as the Minister of National Security is adding in right now, that the use of the badges will be a mandatory requirement so that you are satisfied that the police really are the police. We are seeing in this country police meeting bandits with automatic weapons. The police take that seriously. Automatic exchange is happening. Regrettably, not everybody thinks the same way, including in this Parliament, Madam Speaker.

Madam Speaker, 5(6), we seek to facilitate early restoration of things. We

are allowing for sufficient evidence of things to be confirmed by the use of photographs, digital recordings and other images. This is very important. The law as was provided in subsection (6) of the Act only allowed us to use photographs.

There would be circumstances where we need to use digital imagery, video imagery, other forms, and we have caused an amendment there. This allows restoration back to the owner obviously, but it allows the admissibility of evidence. Because the old school way is if you find a ship you have to bring the ship to the court or take the court to the ship. That is why you see containers full of alcohol outside the Magistrates' Court, because they have to identify the thing at the court. That is why marijuana and drugs are brought to court and you have to literally bring in bags full of weed, bags full of cocaine. Those days are over with these amendments. Every other jurisdiction treats with it this way, Madam Speaker, by photographic evidence and expert testimony, Madam Speaker.

Madam Speaker, we are also allowing, in the amendments in clause 6 for a Master to be able to issue a summons, whether on complaint or not. As it was stated, it contemplated a "shall" scenario. It was not quite clear. We must have the availability of the discretion of the court preserved and we have caused the amendments in the form set out.

Clause 6, (1B), here is where we are using the forms to standardize the approach for complaints, Madam Speaker. And this will allow for a standardization across the processes as we move to operationalize this law in January.

Madam Speaker, we are allowing the DPP in clause 6, (3)(b) to file an indictment in respect of co-accused where the accused has been indicted and the co-accused is arrested before the trial as opposed to the use of the word

“arraignment”. Arraignment was far too complicated a process. It left room for too much argument as to whether it had happened or not. So we have gone simply with the trial.

Madam Speaker, clause 7 repeals and replaces subsection (8) of section 7. It allows for proof of service by an affidavit. We do it in the High Court for civil proceedings. There is the discretion of the magistrate to still cause the officer who served the summons to come to court. But the law as currently crafted said that you had to come to court. It would have been an inappropriate use of police resources, and, therefore we have gone with the affidavit of service route, which is standard in our jurisdiction in the civil form, in the High Court certainly and in other jurisdictions.

Madam Speaker, clause 8 treats with where a person is charged with an indictable offence to be brought before a Master as soon as is practicable, after he is charged, instead of after he is arrested. That is in keeping therefore, with the investigative powers of the police. It is, of course, subjected to the power of the Constitution and the High Court process for habeas corpus. All of that still exists in law. So there are remedies and safeguards in the existing law.

Madam Speaker, the new subsection (7A) in clause 8 would require a charge for an indictable offence to be in the new form. Again, there is no provision currently indicating a document before the court. There is no position at present for us to have a formulated approach and we thought it prudent on this occasion.

Madam Speaker, in clause 9, we are seeking an amendment to section 8A(7) of the Act. We are deleting the word "session" and "session day" and we are just simply going with the days of the court. Under the Criminal Division Act, which we brought into existence, Madam Speaker, by our amendments to the law,

introduction of Act No. 12 of 2018, we are allowing for specialist courts to be brought into existence under section 24 of that Act. The Chief Justice is ready to launch the specialist courts, and therefore we no longer need session days. We can go with regular days.

Madam Speaker, clause 10 amends section 10 of the Act. It empowers the Registrar of the Supreme Court to exercise same concurrent jurisdiction. This is again in keeping with the Criminal Division Act, No. 12 of 2018, yes Act No. 12 of 2018, and it is to harmonize the laws which we have brought into effect. The Registrar ought not to be excluded if a Clerk of the Peace, now called a Magistracy Registrar, has that power. There is no reason why a superior entity, Registrar of the High Court, should be excluded from that discretion and privilege.

Madam Speaker, clause 11 amends section 11(2)(h) of the Act. It allows for the extension of time. There was a rigidity in time set out in the Act. We need to allow the court to have the discretion to extend time in the circumstances of the case. Of course, section 24 of the Act allows for discharge on the ground of delay, except for matters in the Sixth Schedule. I have already informed, we as a Government have ensured that complex fraud, white collar crime and some hard issue crime matters have been put into that Sixth Schedule, excluding the operation of discharge under section 24.

Clause 11(6), Madam Speaker, is a critically important point. We are allowing for the filing of electronic evidence and documents. Why? Because, Madam Speaker, we are ready to put that into effect. The Judiciary has been completely digitized, and we are allowing for a harmonization of platforms. Office of DPP, the new Public Defenders Division, the Trinidad and Tobago Police Service and the Judiciary, operating with the same electronic environment, so that

you can file the documentation that way Madam Speaker, as opposed to having to turn up to court to do it in the long-handed way.

Madam Speaker, clause 12. We removed the penalty for kidnapping. It did not lie in the summary context. It was an anomaly to have it in the law in that sense. So we have removed that particular reference on that occasion.

Clause 13, Madam Speaker, the DPP asked us, notwithstanding the first round of consultations and the second and third round of consultations to err on the side of caution and we agreed. The Act says right now that, at the sufficiency hearing under section 19 of the Act, you send it to the High Court if there is sufficient evidence. That is in keeping with section 23(2) of the existing 1917 law, where you have sufficient evidence. It is in keeping with what the last Government did in the 2014 round of amendments. It is in keeping with the law of St. Lucia, et cetera. The DPP said to us, insofar as we intend to operationalize this law in January, let us revert to the use of prima facie. Let us establish the standard at prima facie level. What is prima facie? It is a higher standard than the balance of probability. It was always intended that prima facie would operate. We have, therefore, lift it from section 23(1) and section 23(2) of the 1917 law, and we have added in the concept of the standard approved being prima facie evidence at the request of the DPP. I want to remind that that is a new request and did not come up in the previous consultations which we have had for many years on this issue.

Madam Speaker, clause 13 treats with empowering a Master to determine when a sufficiency hearing would not be held in open court. That was a feature to allow the court, in the circumstances of witness protection, to allow for open versus closed court proceedings. Again, it is up to the judge to decide that, the judicial officer, as opposed to having open forum. That is critically important,

Madam Speaker, to run alongside the amendments that we are doing to the Evidence Act, where we are proposing the introduction of anonymous witness evidence and special procedures to protect witnesses.

Madam Speaker, clause 14 amends section 20 of the Act. It eliminates the necessity of producing original exhibits or statements into court. Let me explain how powerfully important this is. In complex fraud matters and damaged vehicles matters or seized equipment matters, excavators times 10, damaged vehicles times thousands, and more particularly in complex fraud, documents by the millions no longer need to be produced unless the court says that it must in the interest of justice. We are borrowing this squarely from the United Kingdom, the United States, Canada, Australia, New Zealand. Any sophisticated jurisdiction does not require the maintenance of original documents. We are borrowing the process where there is a certification of the device that contains the documents and a requirement that the Master lists the exhibits and that the party sign off on that, Madam Speaker. There are safeguards obviously, because the collection of the evidence has to be done with the accused; suspects, if practicable; Justice of the Peace in various iterations throughout the various sections of the Act. It allows us, Madam Speaker, to borrow from section 22(4) of PACE in particular, as it relates to retention. It also relies upon the well-known case of *R v Uxbridge Justices*. It is the 1987 case 85 criminal appeals reported at page 367.

Madam Speaker, we are allowing further in this clause 14, in the new subsection (7) that we propose, to require a Master, as I just mentioned, to maintain the list. The witness statements and other documents filed by the prosecutor would be required to disclose sufficient evidence to establish a prima facie case. We are harmonizing the reference to prima facie in the standards across the Act.

Clause 15 amends section 21 of the Act. We had it at 14 years for the child in the sworn and unsworn testimony route. We had to capture the amendments to section 98 of the Children Act. That is Act No. 12 of 2012, as amended by our 2016 amendments in the Family and Children Division Act, in the Fifth Schedule to that Act. We are harmonizing it with that Act and we are bringing the age down from 14 to 10. Obviously, there are safeguards that we have in the Family and Children Division law. There is the child's right to have a child advocate, for an adult to be present, for a Justice of the Peace for under 10, et cetera. So there are adequate safeguards in that position.

Clause 16 amends section 24 of the Act. Again, we are seeking to use the express reference to a prima facie case as a standard. Clause 16 again, also we saw that there was a need for us to make provision for the DPP to make an ex parte application for a judge for warrant. We wanted to redraft this clause for the purposes of clarity.

Madam Speaker, we had not captured sections 23(5) to (8) of the 1917 law, which allows the DPP the right to come back, essentially under those provisions. We thought that it was important to re-include those positions; again keeping it alongside the voluntary indictment by the DPP in accordance with this constitutional powers in section 90.

Clause 17 amends section 25 of the Act; again with reference to prima facie standard being maintained throughout the Bill. Clause 18 amends section 26B of the Act. Madam Speaker, that is to allow additional relevant evidence. We did not need to go beyond the concept of relevance. We have allowed the court that discretion to maintain that process.

Madam Speaker, we have in clause 19 used the reference. Instead of saying

just the Magistrates' Court throughout, we are saying court. Why? Because of the Criminal Division. In our Criminal Division we have merged the Summary Court, the Magistrates' Court, with the High Court, including the process of the Master. Therefore, you can actually have a summary trial conducted by a Master. And, therefore, we have replaced the reference of Magistrate with Court, to contemplate three judicial entities, judge, master or magistrate as we merge those jurisdictions.

Clause 20, Madam Speaker, amends section 29 of the Act. Again this is driven by the DPP's Queen's Counsel. It allows for production of electronic copies of exhibits and documents in any witness statement at sufficiency hearings and trials. The court would have a power to direct the original documents to come before the court. It speaks to what I have referred to a little bit earlier.

Madam Speaker, we are allowing in clause 21 an amendment to section 30(5), and that is for the binding over of witnesses to attend trial. And we deal with evidence that is not in dispute; not just formal, mere formality route, because that could give the wrong impression. The parties are entirely capable of saying what they have in dispute or not. That is what the case management at the initial hearing, under section 11 of the Act, would allow, and if there are matters that are not in dispute, it should be more than just what is merely formal evidence.

Madam Speaker, clause 22 inserts a new section 34. This allows us to amend the forms via the established process, which is the Chief Justice, under practice directions or RSC, Rules of the Supreme Court. We have taken the practice direction because those are really merely formal aspects.

Madam Speaker, clause 23 amends Schedule 1 of the Act. We are deleting and substituting the forms there, Forms 2, 3, and 4. It is necessary in light of the changes in the sections that are referred to there.

Very importantly, clause 24. It amends Schedule 8 of the Act. Schedule 8 is where we had done the consequential amendments. The Evidence Act is being amended by this law and I want to stress this one. Members may not have spotted it. This is one of the most powerful amendments required if we are going to have trials happen. We are repealing section 14B of the Evidence Act. Why? Section 14B has an archaic and ridiculous approach to the admissibility of computer evidence. It was long abolished in the United Kingdom. In fact, section 69 of the PACE Act was abolished in the year 2000. For 19 years in the United Kingdom, they have been looking at the issue of computer evidence by abolishing section 14B of the Evidence Act. We are reverting to the utilization of the common-law. In other words then, there is a presumption that the evidence coming from the computer is from a computer that is in working condition, unless it is put into dispute and then the dispute allows for you to prove that the computer is working properly or not. This will save a massive amount of time, particularly in the complex fraud matters.

In the round, therefore, Madam Speaker, this is the third round of amendments to the Administration of Justice (Indictable Proceedings) Act. It has been carefully considered by the Trinidad and Tobago Police Service, by the Director of Public Prosecutions, Queen's Counsel to the Director of Public Prosecutions and an entire team of the Judiciary. We have sat for months, the Office of the Attorney General. I sat myself in each of those many meetings. My support entities at the office did as well. We drafted this very, very carefully because we want to operationalize the law. It is definitely far past time for us to continue to flirt with the idea of abolishing preliminary enquiries. It is obscene that people have to wait in pretrial investigations for up to 20 to 25 years, worse

yet when they are in the context of pretrial incarceration on remand.

2.30p.m.

Madam Speaker, we have done this not as a single bullet in the fight against crime, but as part of a wide array of amendments, and operational procedures. We have built courts, we have increased the number of judges, we have increased the number of Masters, we have increased the rules purview by introducing in 2016 the Criminal Procedure Rules. We have opened brand new courts, we have divisions of courts, we have opened the Children Court, we have a location in Fyzabad, one in St. Clair, we are about to convert the one Hall of Justice into a Criminal Division. This Tower D which houses the Parliament, which is about to move, becomes the home of the civil courts including the appellate courts.

I am told that the request for proposals for the building of the Magistrates' Court in San Fernando went out on Friday, it means the Magistrates' Court in San Fernando starts in the month of January. We have opened the Family Court in Tobago. The Family Court in operation has therefore been grown. We are looking at the family court roll out in San Fernando which is something that the Finance and General Purposes Committee of Cabinet is looking at. This, Madam Speaker, is good and proportionate law. And I beg to move. [*Desk thumping*].

Question proposed.

Mr. Prakash Ramadhar (*St. Augustine*): [*Desk thumping*] Thank you very much, Madam Speaker. As I rise, I put one question to Attorney General, and I should take my seat if he would condescend to answering it. Is your Government a believer in freedom? Is your Government a believer in the Constitution of Trinidad and Tobago? And I shall take my seat if you just give us an answer.

Mr. Al-Rawi: Absolutely yes, Madam Speaker.

Mr. P. Ramadhar: How then could you dare bring before this Parliament legislation that requires the issuance of a search warrant, that invades the privacy of a person's home, their business place, indeed their family life, that gives the authority, if it is granted, for the police to enter their premises repeatedly without limit? [*Desk thumping*] I have heard you say that in the course of conduct of investigations, information may come, and therefore, the need will arise for there to be other places to be searched. This is an open licence to terrorize. [*Desk thumping*] From the outset, Attorney General, let me just say that you spoke of PACE in England. This is not Britain, this is not United Kingdom. [*Desk thumping*] You could not suggest for a moment that you would bring First World requirements in a Third World environment. It will be—

Mrs. Jennings-Smith: [*Steups*]

Mr. P. Ramadhar: You “steupsing” in Parliament, Madam police officer?

Dr. Moonilal: That is normal.

Mr. P. Ramadhar: That is how the police operate in this country. [*Desk thumping*] They “steups” at the Constitution. They “steups” at the law that it will protect. This is the offence taken by the most senior police officer from where? Toco/Sangre Grande. That is the attitude we are talking about and thank you for doing what you do, because this is only the tip of the iceberg of how police act. [*Desk thumping*] Let me tell you, it sounds good on paper—

Dr. Moonilal: Exhibit one.

Mr. P. Ramadhar: Exhibit one, we shall mark exhibit one, computerized or otherwise.

Mrs. Jennings-Smith: Criminals.

Mr. P. Ramadhar: Criminals, you hear the word. Everybody in this country is a

criminal if you sit on that side. And you know that is the danger that has eroded the democracy in this country. This is the fuel that gives them this “holier than thou” approach, right, that everybody—there is no presumption of innocence that exists in this nation.

I saw a headline yesterday about money going to the bank, whatever, 749 million of dirty money. “Oh my goodness”, right? The barber and everybody “gehin expose yuh business”. That is dirty money? Everything that does not belong to you is dirty and corrupt? [*Desk thumping*]

This is the beginning, if not halfway through, the creation of a police state. And if Members there believe that the offices that they now occupy will be permanent, and the laws that are created and the authority given to forces they cannot in the future control, then they are living in a fool’s paradise. [*Desk thumping*] It is the function of the Parliament and I have spoken to this before, when the seas are rough, when we are pulled to and fro, by the belief that criminality has overcome this nation, it is then that we must ensure that the moorings that we hold to our Constitution are strengthened, not weakened and destroyed. It was never my intent to speak on this Bill.

Hon. Member: Yeah right.

Mr. P. Ramadhar: Because let me tell you why. It is a power-puff Bill. You powered it up and you give us “ting” about prima facie and all sorts of innocuous “ting”, but then you drop that bullet, loaded in the chamber, section 5 that gives this authority to do all these awful things. Now in a perfect world, it may sound good, but let me just tell you about the perfect world of Trinidad and Tobago.

Years ago, I received a call from a client and he was “cussin” through his every breath and every fiber of his being that his entire family had been arrested

for possession of drugs and that he knew nothing of the possession of the drugs, but they took “he” and his wife, his daughter and all who were at home to the police station and they, of course, obtained bail and then he called me. He said, “But you know, Mr. Ramadhar, when I got home you know what I found? I found the warrant.” I said, “You found the warrant?” He said, “Yes.” I said, “Did they read a warrant to you?” “No.” “Did they show you one?” “No.” I said, “Well, do not tell anybody, bring it to me.” He did. We copied it and the warrant on the face of it appeared to be authentic, genuine, signed by a—Attorney General, I know you did not know about this and I will tell you, signed by a magistrate who remains stoically quiet on the matter.

The matter started in the Magistrates’ Court and as senior officer who had led that raid, came and gave evidence, but in the interim he did not know. Very quietly and confidentially, we had sent off this warrant to the Magistrate to enquire whether he had actually signed that warrant. The answer is, yes, I did. No problem. Maybe they forget it there. But this senior officer lifted the *Holy Bible* and swore to speak the truth, the whole truth and nothing but the truth and said these things: That I went to this home with a warrant obtained from a magistrate “so and so”, executed the warrant and there found cocaine and I arrested the accused—curtailing, of course, and here is the warrant. Puts in a warrant and the warrant has the name of the magistrate on it, “doh” forget we have one “eh”, that was forgotten.

So I got up and I cross-examined. I said, “Tell me something, how many times did you visit that premises?” Hear the question, how many times? “Once.” I said, “So if you had reason to visit this place more than once, you would have done so, yes? Nothing prevented you from so doing?” “No.” “You obtained how

many warrants in relation to that premises?” “One.” “And this is the warrant you obtained, the one you put in evidence?” “Yes.” “You obtained no other warrant?” “No.” “So explain this to me.” Put it into his hand. The whole case collapsed because the very foundation of entering the man’s home had been corrupted, subverted, the power of that warrant is an incredible thing but here you had a falsification of the warrant. A false warrant was created and put into evidence. Now let us back-peddle a little bit, not to say you are running from anything, you know, but it is sometimes better to go back a bit so that you would have a better view of what we are dealing with.

Madam Speaker, my father taught me since I was a little child, to do unto others as you would have them do unto you. The golden rule. And I understood it then, but I never understood it as much as I do now. When they sit in offices of power, they believe—and we sat there and I understood too how that happens. And I want to congratulate the then Prime Minister, Kamla Persad-Bissessar of protecting— [*Desk thumping*] Let me finish before you all applaud, eh, you may not want to applaud—for protecting the country from sometimes over anxious Attorneys General, in terms of the power they wish to give to others because it is requested of them by the Judiciary, by the police of the protective services, and in an eagerness to serve, to feel that you are part of that institutional par, you give to them that which not necessarily is good for the people. [*Desk thumping*]

And I remember, and I remember clearly, the Member for Barataria/San Juan, the Member for Caroni East, the Member for Tabaquite, almost singularly had to stand on one issue. I shall not disclose what happened in the Cabinet, and it was the Prime Minister who said, “No, we cannot allow this power to be given. It is not good for the democracy.”

Dr. Gopeesingh: I remember that day.

Mr. P. Ramadhar: You remember it clearly.

Dr. Gopeesingh: Clearly.

Mr. P. Ramadhar: It is not good for the people and it is not good for the constitutional protection of all of us.

Dr. Gopeesingh: We objected to that.

Mr. P. Ramadhar: Yes. So Attorney General, I am saying these things that now you are in the cosseted embrace of the Judiciary, of the police, and of the protective services, you may wish to parrot what they wish to have, but do not forget these are the same people who would have advised the then government to issue a state of emergency. [*Desk thumping*] And, therefore we understand their eagerness to try and deal with what duty they have, must always be balanced by a sober-minded approach to this thing with a sense of history, a sense of the past, of the present, and of the future. Let us not forget these things as we speak of what is the past. A man's home is his castle. [*Desk thumping*]

Dr. Gopeesingh: Sacrosanct.

Mr. P. Ramadhar: We grew up in the law books, but before that even, you would have heard it as a given truth and it must be right, indeed. Coke in his writing since 1628, I think it was, had spoken that, yes, a man's home is his castle. And to paraphrase, he said even the rains may come through it, the winds may blow through it, but the sovereign may not enter it.

Now, of course, we have moved a long way from that, because then we understood that you could not do what is illegal in your home that which would be illegal on the streets. And therefore, there was an adjustment to that, but there is a fundamental thing here. The home, the one place that you should feel safe, and, of

course, riveted by crime and brutality, bandits breaking in, you are afraid to even be there, but it is the safe haven, whenever you feel sick. Madam Speaker, you know these things. You “eh” want to go hospital, you know, I just want to go home. Comforting place as humble as it may be, former Minister of Housing and Urban Development, you know that, San Fernando East.

It may be palatial, it may be what, but it is supposed to be a safe place where you feel secure from the cold, or sometimes rainy weather, sometimes from the flood. I understand, the Members from south in particular. I did not expect to open this debate, but the Attorney General brought this Bill flooding us with amendments while my friends from the south were flooded out. But I did not know, I did not believe it for a time, because I did not hear anything from the Government, except even the acknowledgement of floods in south. And I congratulate the Member for Cumuto/Manzanilla for raising it as a matter of urgent importance, of course, not urgent enough. But we move forward back to the basics of your home.

Madam Speaker, do unto others as you have them do unto you. Who amongst us have ever had a home invasion?

Dr. Gopeesingh: Me.

Mr. P. Ramadhar: Yeah? You? The Member for Caroni East.

Dr. Gopeesingh: Without a warrant.

Mr. P. Ramadhar: No, no, no, no, we are not talking—“Oh, you talking bout police home invasion”. I am sorry, I beg your pardon, yes. The Member for—what is Imbert’s son?

Dr. Gopeesingh: Diego Martin North/East.

Mr. P. Ramadhar: The Member for Diego Martin North/East. I unfortunately

had to be reminded this weekend that he too was a victim of a home invasion some few years ago, where several hundred thousands of TT \$100 bills were taken from his home and many thousands of US were taken from his home. I could only imagine the grief and agony he and his family would have felt by that home invasion. It is traumatic. Yeah?

Mr. Charles: Selling bhaji.

Mr. P. Ramadhar: The irony of which is, you know, what? With the property tax, he wanted the evaluators to invade your home to go and valuate, you know. And that is why you must do unto others as you have them do unto you. Treasure this thing called your home. Let us treasure this thing. And this must only be opened up, never to the criminals, but to the police, yes, in the due and proper exercise of their duty in the furtherance of suppressing crime or detecting crime.

But look what happened, was it this year? In Gulf View?

Mrs. Gayadeen-Gopeesingh: Yes, seven houses.

Mr. P. Ramadhar: Houses were rampaged, not by marauding bandits but by the officers for whom we have the greatest love and admiration with their machine guns, kept to their side running through homes into family's places of sacred environment whether in their prayer rooms, their temples, in their bedrooms—

Mrs. Gayadeen-Gopeesingh: Looking for a yellow house.

Mr. P. Ramadhar: And we congratulate the Commissioner, belatedly, of course, apologizing for that. And, of course, even as grave as it was, the hon. Prime Minister had to weigh in on the matter to have announced that you do not need a warrant to go into homes all the time, right? There is, of course, the belief in hot pursuit, you know that, Member for San Fernando East, when you were a bachelor when you are talking about hot pursuit that you do not always need a warrant to

enter, yeah?

Mr. Mitchell: What?

Mr. P. Ramadhar: Apart from that.

Mr. Mitchell: Do not go to the jocular. Stay on the serious.

Mr. P. Ramadhar: But I am quite serious, you are from San Fernando. If you do not care about the people of Gulf View, I am a bit surprised. I am speaking about the need for police officers to have the authority to go after someone, or something in hot pursuit; that is what I am talking about. So there are exceptions to that. But for anybody else to lawfully enter your home without invitation requires judicial authority and that is the point.

So to say that we have looked to Britain, and that we have been able to take “ah borrow” of page 8 for multiple entries on a single warrant obfuscates the very reality from which we exist, which is that there are many safeguards to PACE that we do not yet enjoy in Trinidad and Tobago. And I am hearing my learned friend say that the amendments about. How many are you going to amend this thing? Can we make up our mind as to what we are doing? Listen what is today’s date folks?

Mrs. Gayadeen-Gopeesingh: The 16th.

Mr. P. Ramadhar: Sixteenth. Nine good days away from our celebrating the birth of our beloved Jesus Christ, precious few days that when one should be, you know, enjoying the pre-Christmas season—

Dr. Moonilal: Pumping out water.

Mr. P. Ramadhar: No, no, let us not talk about the people of south, Member for Oropouche East. Let us not talk about that, pumping out water from their homes. Let us possibly talk about those who go to the bank to get money now to go and

buy their Christmas goodies. Let us talk about all those who look forward to purchasing their ham, \$200, \$300 for one? I am not sure.

Mrs. Gayadeen-Gopeesingh: “I doh know, I doh eat it”.

Hon. Member: But here we are on a Monday afternoon, brought before the Parliament to debate this Bill so that we could finally get rid of preliminary enquiries. The argument has been made repeatedly and you know what? Nobody has argued against it. It was the People’s Partnership government that started the process to remove preliminary enquiries. [*Desk thumping*] But you know what we did? For all the travails and problems that comes with changing an anachronistic, historical, almost, what shall I say, cemented in places. It took a lot of effort, a lot of effort and more important to hit that gridlock, to bust that old gridlock, that “cementification” was that we came with a constitutional majority for the 2011 Bill.

Attorney General, my friend, this amendment that goes to the very heart of the right to privacy, which I know you are a champion of, why is there no constitutional majority attaching to this amendment? [*Desk thumping*] I will not accuse you of legislative sleight of hand, I will not do that. But what do we have here, as I said, all the powder puff and everything, you know, all the cosmetics. But the gun power one that number five, that slip in there, innocuous as it might be—

Dr. Gopeesingh: Multiple search.

Mr. P. Ramadhar: Multiple searches.

Dr. Gopeesingh: Unlimited.

Mr. P. Ramadhar: Unlimited. You know, Madam Speaker, sometimes it is important for us to read every word and let me start with the very generous

approach of the Attorney General in providing on the website and so the original Bill No. 20 of 2011. Leader of the Opposition, as of Prime Minister, I remembered when you insisted that this be brought by a constitutional majority. [*Desk thumping*] But if it is one thing you could not complain about the UNC Partnership or Opposition, one thing you could never say is that we are not democratic and we are not about party. [*Desk thumping*]

Remember full well, it was on this side or those who now populate along history, or persons who are libertarians that we were the beneficiary of freedom of information. On your side, we are the beneficiaries of a hatchet and a sledgehammer to freedom of information the darkening of the lights. It was on this side that when the issue, and I shall deal with the Sat Maharaj issue shortly. Somebody remind me of this, there are so many things I need to speak to. [*Laughter*] But—look, let me just go and read this thing yes. No. 20 of 2011:

“Whereas it is enacted inter alia by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly: And whereas it is provided by section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enacted by the Parliament of Trinidad and Tobago as follows:"

This is the parent Act. This amendment has no such endorsement.

I am sure, members of the CPC who are, I know, normally very alert to these matters, it must have slipped them. But who else did it slip? The Judiciary that you spoke with and asked for this amendment? If that is the reason, well then we are in bigger trouble than I thought. [*Desk thumping*]. Because you know "wha" would happen. The very Judiciary that we flag there and say that they are the ones you consult with to get this idea, maybe it is their brain child, it is their brain child, is the very Judiciary that we, the citizens, will have to return to get any relief from any breach of our rights. And I will ask and I will take my seat, Attorney General, once again, not permanently, but for your response, whether the Judiciary asked for section 5 amendments?

Mr. Al-Rawi: I thank the hon. Member for giving way, because he has not read the concept of due process in the Constitution, because everything that you are saying is really so basically wrong that I am quite surprised. And what I can say is that not only did the DPP, Queen's Counsel for the DPP and the entire Judiciary receive these proposed amendments and sit and go through clause by clause, the Law Association, the Criminal Bar, everybody is apparently insane except your contribution in the opposite direction. So, I just cannot understand where you are going with this. [*Desk thumping*]

Mr. P. Ramadhar: Your failure to understand, Attorney General, is not my problem. [*Desk thumping*] And, you know, for the first time I saw a side that I did not expect, one of insult and a bit of temper.

Hon. Member: No.

Mr. P. Ramadhar: I asked a simple question: Did the Judiciary ask you for this

amendment? That is all I asked. And you have not answered but so be it.

Mr. Hinds: Sidestepping the issue now.

Mr. P. Ramadhar: I sidestepping? I “doh” sidestep, you know, I take frontally.
[*Desk thumping*] At best, I am an awkward dancer.

Mr. Hinds: You are an awkward simpliciter. [*Laughter*]

Madam Speaker: Member for Laventille West and Member for San Fernando East. Please continue, Member for St. Augustine.

Mr. P. Ramadhar: Yes. And my friend is offensive completely. So that we move forward on the issue.

Mr. Indarsingh: They cannot help themselves.

Mr. P. Ramadhar: Not having had the question answered, we move forward. That the Judiciary, if they asked for this— Madam, let me trouble you a little bit. So section 5, as I say it is a licence to terrorize, eh. I repeat, a licence to terrorize. Section 5:

“(1) A Master who is satisfied by proof on oath that there is reasonable ground for believing...”

And maybe when next you get the opportunity, Attorney General, tell me at the end, are you bringing this as—to be clear, a simple majority requirement vote? Or a constitutional majority vote? I am not sure, because it does not say so on the amendments. It may be some process that eludes me in the moment that one can assume that you could pass something with a constitutional majority and then amend the heart of it by simple majority, I do not know. Maybe—sounds wrong—

Mrs. Gayadeen- Goopeesingh: We need to be guided.

Mr. P. Ramadhar: But maybe there is something there.

Mrs. Persad-Bissessar SC: Nothing there.

Mr. P. Ramadhar: It cannot be if that is so, we have to root that out and get rid of it. [*Desk thumping*] Section 5:

“(1) A Master who is satisfied by proof on oath”—understand this— “is satisfied by proof on oath that there is reasonable ground for believing that there is in any building”—I see we moved from ship to aircraft, we “geh” modern, we gone high—“vessel, vehicle, box, receptacle or place—

- (a) anything upon or in respect of which any indictable offence has been or is suspected to have been committed;
- (b) anything which there is reasonable ground for believing will afford evidence as to the commission of an indictable offence; or
- (c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any indictable offence against the person,

may at any time”—underline time—“issue a warrant under his hand authorizing any constable to search such building, ship, vessel, vehicle”—with so, and so, and so.

And then we have the inclusion of subsection (1) that really says this:

“(1A) A search warrant may authorise the search of—

- (a) one or more sets of premises specified in the warrant;”

Set of premises, the language, what does that mean? Does it give an address? Because from my little experience of only 30-odd years, there always is an address attached. So that you “doh” make the mistake, Member for Arima, for landing up in the neighbour place, you know.

Mr. Indarsingh: “But he doh know where”.

Dr. Moonilal: A six for a nine.

Mr. P. Ramadhar: We cannot do that. You have to be specific because the law has always recognized this is giving the State the authority to break a door, to arrest a person in their own home, to invade the privacy so that they see all the things that you wish only to be kept in your bedroom. Kill your dog— I want to tell you thanks for reminding me. I am doing a case now—

Mr. Garcia: Oh gosh.

Mr. P. Ramadhar: Where police—“oh gosh”? This is the real world, Sir. [*Desk thumping*] Thank you. A police officer went on this exercise to execute a warrant to search a home, the place is fenced, the people “ha dog”, “dey doh had no gun, dey have dog” to protect. Police officer “open de gate, one ah the dog get out” and instead of trying to—“dey buss” a bullet or bullets on the dog, missed and hit the police on his leg and shattered his bone. It did not make news but it will make the court, I will tell you this. So that there is incredible violence afoot, not illegally, but when persons are attempting to enter your home especially where persons now put on police uniform with their blue lights and come outside your door and tell you, “Police, police”, wrapping it to come in an enter, there is tremendous danger in that and therefore, we need to ensure that that piece of paper, that lil piece of paper worse than a will, you know—

Dr. Moonilal: Which they left behind.

Mr. P. Ramadhar: Which they left behind in the client’s case. Is so sacred and sacrosanct that they must have specificity of science.

3.00 p.m.

You cannot then come here and ask—I have 30 more minutes?

Dr. Moonilal: Six more minutes of original time.

Mr. P. Ramadhar: Oh my God.

Dr. Gopeesingh: You have 21 more minutes.

Mr. P. Ramadhar: To talk about sets of premises. So they could say, “Look, this man living in Lange Park, no, and therefore we could search the entire block or in Westmoorings, search de whole building, sets of premises.” Now it sounds simplistic, but let me tell you, this is the language that allows mischief to creep in and to slide in. [*Desk thumping*] The imprecision used here is frightening and unnecessary, and I will tell you why it is unnecessary. Let me read on:

“(b) any premises occupied or controlled by a person specified in the warrant if the Master is satisfied...”

So if you are investigating, “is only when you execute search warrant den you going to find out de other premises that he occupy or control?” What kind of investigation—this is the lazy man’s approach to things. [*Desk thumping*] You have to wait to go find.

The last thing you must do, Member for Laventille West as you well know, is you do your investigation, you get all the reasonable cause. Remember what we said there, “satisfied by proof and oath that there is reasonable ground.” So, if you do not have that up front, “what yuh asking now fuh dis blanket approach to go in people place all over.” That is why you do it under oath, “I swear that I have reasonable grounds.” The reasonable grounds, whether in practice is ex—sorry Milady.

Madam Speaker: Member for St. Augustine, your original speaking time is now spent. You have 15 more minutes to wind up your presentation.

Mr. P. Ramadhar: Thank you.

Madam Speaker: Please proceed.

Mr. P. Ramadhar: I am most grateful. You must have the reasonable grounds,

you must state it to the person who is the judicial officer who has the authority under our Constitution to authorize it, “but doh come now” because that judicial officer now called a Master, is bound by the wording of the amendment, that Parliament in its deliberate effort created. So that, they come and say, “Look, we have information but we require”—what shall I say—an omnibus net, that we can go anywhere and the court will be, “Okay, you have reasonable grounds in relation to one place, but I am going to have now, to give you for many unknown, unidentified places, that affect the lives of many others who have nothing to do with this”. We read on:

“Any premises occupied or controlled by a person specified in a warrant if the Master is satisfied...

(i) because of the particulars of the indictable offence referred...”

They are not satisfied, and then we go on to:

“(ii) it is not reasonably practicable...”

I have to curtail this now, and then we go now:

“(1B) A search warrant may authorise the search of premises on more than one occasion if the Master is satisfied that it is necessary to authorise multiple searches...”

Not numbered searches, you know, one, two, three, four, five, zero, zero, seven, licences to terrorize.

“in order to achieve the purpose for which the search warrant is issued.”

“(C)”—this is written here typed up in black on white paper:

“(1C) Where a search warrant authorises multiple searches, the number of searches authorised may be unlimited...”

Hon. Member: Creeping.

Mr. P. Ramadhar: No, not creeping, it reach, we in it.

“...may be unlimited or limited to a maximum specified in the search warrant.”

So, they could go to the Master and say “ah want seven searches”, or they could say “ah want unlimited searches”. When does it begin? The moment it is signed off by the Master. When does it end? What year are we in 2019, 2020, 2021? How could we be creating law that gives the power of the police of Trinidad and Tobago to become another Tonton Macoute. [*Desk thumping*] A mongoose gang, “ah coming to Hitler, buh ah doh have time actually” but—oh, to the Flying Squad, our own local history. Where, Madam Speaker, nobody is not above the law, “we doh want dat”, but nobody would be protected by the law, because the law has now changed to remove the protection.

Mr. Arima, I know you did not understand what was happening you know, I know that. But this is why I ask, to the soul and conscience of my friends on the other side, that the pretty writing and the requests of certain powers that be, not all of them are good. It has been said as a truth that the road to hell is paved with good intentions, so I know the Attorney General has, but this, we cannot support, we will not support. [*Desk thumping*]

For those who believe that I speak in esoteric terms that have no relevance to the real world, members of the media, take note. *Newsday*, this is the one that came up. I am sure the other newspapers would have carried it. With your leave—

Madam Speaker: Member, please direct your contribution this way, and you are talking to individual members. Remember you are directing your conversation, your contribution to the Chair, please.

Mr. P. Ramadhar: Well, then I ask Milady, as the Speaker of this House, to

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protect this nation from them. [*Desk thumping*] *Newsday*, 24 July, 2019—
[*Interruption*] You never came up against me. A high court judge has given
Commissioner of Police Gary Griffith, seven days to provide a copy of the search
warrant police said they relied on—and I congratulate the Attorney General now to
make it mandatory to give—

Mr. Al-Rawi: Sub judice man, come on.

Madam Speaker: Attorney General, you wish to make a point of order?

Mr. Al-Rawi: Madam Speaker, forgive me, I do not have it, but it is principle,
Standing Order on sub judice. I am confused between the House and the Senate.

Mr. P. Ramadhar: Injury time.

Mr. Al-Rawi: I know you know it well.

Hon Member: Forty-nine.

Mr. Al-Rawi: Forty-nine, Madam Speaker.

Mr. P. Ramadhar: This is a pronouncement of the High Court. This matter has
been dealt with and determined by the High Court. [*Desk thumping*]

Dr. Gopeesingh: You quoted the wrong Standing Order.

Madam Speaker: Attorney General, are you raising a Standing Order? Please.

Mr. Al-Rawi: Madam Speaker, I rise properly on Standing Order 49, the matter is
sub judice, and my friend knows that. I have no difficulty with his submission
otherwise, but on the sub judice point.

Madam Speaker: Okay. So, Member for St. Augustine, I know you are quite
aware of the Standing Order, and therefore I hold the Attorney General bound by
that point, and therefore I would ask you to move onto something else please?

Mr. P. Ramadhar: I am most grateful. I am not going to go in to the merit of the
case you know. I am going on the reflections of the judge in relation—

Madam Speaker: Yeah, but if the matter—[*Interruption*] if the matter—if the matter is still—Member for Siparia. Member for Siparia. Member for Siparia, if you turn this way you might realize that I am on my legs.

Mrs. Persad-Bissessar SC: If I do what, Madam?

Madam Speaker: If you turn this way you may have realized that I was on my legs, I am sure you did not see that, that is why you continued to speak. Member for St. Augustine, if the matter is still subject to adjudication, I would ask you to leave it and continue please?

Mr. P. Ramadhar: Thank you very much.

Madam Speaker: Thank you.

Mr. P. Ramadhar: But you see, when we reflect that a democratic state, the search of a media house as an example, can have a chilling effect on the society, the power of the search can be used for illegitimate purposes of intimidating, silencing critics, including invasion of privacy of individuals who are present, who are employed. A free media—you know, this is known to all of us, whether we respect it is another matter—operating in an environment which is free from harassment and intimidation, is as fundamental to a democratic society as a free and independent judiciary. [*Desk thumping*]

So without wanting to offend the issue of sub judice, it is in the public domain what has happened. In relation to not one, but several media houses, I think TV6 was the victim—sorry, TV6 was the victim some time ago where police went during a live show and—you know, this is real world. And it is happening before our very eyes, and only those who do not wish to see, will not see. But I, contrary to all the remonstrations from the other side “bout patriot, patriot, patriot.” This is an attack on the Constitution and every patriot must accept responsibility. [*Desk*

thumping] They must accept responsibility and caution the Government now.

[*Desk thumping*]

Dr. Gopeesingh: That is patriotism. That is patriotism.

Mr. P. Ramadhar: In the face of possible recrimination, we must go brave and go forward, unafraid to do that which is right. It may be unpopular the way it is demonized that every time somebody speaks about the rights, they say how you are protecting criminal. Every time they speak about liberty, they say that you are a supporter of corruption. Whenever they, you know, and that is how the language has turned, that the moment you stand in opposition to any law that they put the beautiful title of fighting crime, dealing with corruption, well then you have to be dirty. I take high umbrage to that. [*Desk thumping*]

One should never be afraid in the face of great power to speak truth. The moment you start doing that we will end up just like Hitler's Germany when [*Desk thumping*] the brown shirts—I am not for a moment suggesting that we are close to that, but I would tell you something, the trajectory is the same. [*Desk thumping*] Because far and wide the people of this country are the lovers of liberty and freedom. They have been bashed and damaged into a belief that laws will protect them from the criminality, when in fact, we need execution on the ground to get the things done. And that is why the People's Partnership gave 800 vehicles to the police to ensure their protection and safety. [*Desk thumping*] The People's Partnership protected against corruption, protected by bringing procurement legislation, Prime Minister, not yet implemented.

Dr. Gopeesingh: Four and a half years later.

Mr. P. Ramadhar: For whatever good reason there might be, it is the People's Partnership government that said that this is Trinidad and Tobago, the wealth of

this nation must be enjoyed by all of them, so therefore when we distributed food cards, of course there will be corruption in things and we need to fix that. But the benefit of the nation's wealth went to the people of Trinidad and Tobago. [*Desk thumping*]

So, Madam Speaker, I know my time is running perilously close to an end. The Leader of the Opposition, because sedition was not an issue under our term. It was not. I do not think there was ever a threat, unless it was you know, high evidence of sedition. [*Interruption*] Yes, because there was information from the very people you are taking advice from of an assassination plot. [*Desk thumping*] You want what? So what? You would just ignore it all? Ignore it all? You do not. You listen, when there would be the possibility of blood being shed to act upon it, but when in the cold light of day, when powers are being taken from the people and given to some where we have a long history. And I look forward to the improved effect of the policing. And I congratulate all the young officers who would really take on and I am sensing it, there is hope and optimism in their bosom. But do not, I assure you, believe that the wicked have been weeded out, they have not. There are those amongst the flock who have nothing but ill intent and possible agenda beyond law enforcement. So, that is a caution that we must take and we must make.

Mr. Indarsingh: Three minutes—

Mr. P. Ramadhar: Madam Speaker, as I said, section 5 and the amendments to it, (1A) and (1B) are not necessary. Let me tell you why. I have seen it on TV, right, where in the midst of hot pursuit sometimes or investigation, a telephone call is made to a judge to authorize a warrant. Why could we not modernize? All the thing we hearing about everything digitized, computerized, but we cellphonized

long time. And therefore, the effect of this, you know what it is? Is a blinding of the judiciary under the guise of judicial oversight. Because when you get your first warrant at that point and it is unlimited, unlimited in location, and in time, and possibly now because of this, persons. Then the Judiciary is enticed and required to give the authority to the police to demonize the rights of our citizens. And it is fixable, there being continuous oversight.

Now, this is a trend, a course of conduct for “meh” friends. And as the term is drawing near, I am sensing now an anxiety now, a desperation to entrench in such a forceful way that people would be even afraid to vote against it. I pause, because an all-powerful, hegemonic force is what they wish to create, that anything that stands against it would be demolished and demoralized. They start the demoralization already, but you will never destroy it, [*Desk thumping*] the people on the other side.

3.15 p.m.

As I repeat as I am about to take my seat, the large percentage of our population do not believe in bullying, they do not believe in badness and they do not believe in wrong and strong, and when you look at the totality of what this Government—unfortunately, I supported—when you won the election, I wished you well. I say if you succeed, the nation succeeds. If you fail, the people will suffer. Unfortunately, I am not here to pass judgment, no I do not, but you have not succeeded. [*Desk thumping*]

But having said that, there is still hope. There should still always be hope, because the birth of our Christ tells us that there is redemption, yes, but not for you to return, but for you [*Laughter and desk thumping*]*—no, no, no, let us not make light of this, Gentlemen and Ladies—to make amends as we proceed now to show*

that you have another side to you that is not callous and uncaring—giggling and laughing at the pholourie vendors and everybody being deemed criminal, because when you treat people as criminals, guess what? You have lowered the bar and, therefore, you allow in no sense of expectation other than a low-life kind of conduct, and that has a serious, psychological effect on the population. We are a good, decent, noble people but we have been misled, not just today, and I hope not into the future. God bless us all. Thank you. [*Desk thumping*]

The Minister of Tourism (Hon. Randall Mitchell): Thank you very much, Madam Speaker. [*Desk thumping*] Madam Speaker, allow me to thank you for the opportunity to contribute to this Bill to amend the Administration of Justice (Indictable Proceedings) Act, 2011, the parent Act, Madam Speaker, which provides for the abolition of preliminary enquiries and for a more efficient filtration safeguard for indictable matters in the criminal justicesystem. And, Madam Speaker, allow me to put on the record my thanks and congratulations to the Prime Minister, the Attorney General, [*Desk thumping*] and the Member for Laventille West [*Desk thumping*] for pushing through these reforms that were so badly needed.

Madam Speaker, I sat here and I observed and listened to the contribution of the Member for St. Augustine, as I have on many occasions, and I have to say, Madam Speaker, I have to confess, that it was a most bizarre contribution, [*Desk thumping*] very unlike the Member for St. Augustine. Madam Speaker, but let me say at the outset, the Member argues that on this side, we should not take advice from law enforcement and the Judiciary, it might be bad advice.

Hon. Members: Blindly.

Hon. R. Mitchell: Blindly, you should not take it. But, Madam Speaker, let me

say from the outset, that it was their Cabinet that had a wild and reckless and abusive Attorney General [*Desk thumping*] who is now before the courts, Madam Speaker, and that was the reason. Madam Speaker, ours do not. Every law, Madam Speaker, that is brought before here is brought on consultation with all the stakeholders, is brought after careful consideration by the Office of the Attorney General, is brought here after careful consideration by the subcommittee of Cabinet, the LRC and, Madam Speaker, after careful consideration by the Cabinet and sometimes the F&GP committee [*Desk thumping*] before it comes here.

Madam Speaker, and allow me to take objection immediately to the suggestion by the Member for St. Augustine—he has departed his seat—that we on this side are putting First World requirements to Third World environments. Madam Speaker, let me say, that this Government does not view Trinidad and Tobago as any Third World environment. [*Desk thumping*] And, Madam Speaker, from as far back as the last decade, the PNM had envisioned Trinidad and Tobago to reach First World status, but for the period between 2010 and 2015 [*Desk thumping*] we would have been there by next year. But that is what we strive for, and what we are doing here today is putting First World strategies to confront the scourge of crime that we are experiencing here in Trinidad and Tobago. [*Desk thumping*]

And, Madam Speaker, let me say I have great admiration for the Member for St. Augustine, but the Member for St. Augustine, in his practice, he may be subject to certain biases in defence of his clients. I mean, he is a defence attorney. But, Madam Speaker, we on this side, we are here seeking the interest of all the law-abiding people of Trinidad and Tobago [*Desk thumping*] and that is why we have brought this Bill. [*Desk thumping*]

The Member for St. Augustine also spoke about the creation of false warrants, and he went into a long five-minute story about the creation of false warrants but missed—perhaps he did not read the Bill—that the Attorney General in this Bill has put in a number of safeguards that were not previously there, and did not congratulate the Attorney General for that. [*Desk thumping*] And the Member for St. Augustine, in one breath, he is speaking about your house being your castle, because outside you are rampaged by crime. And, Madam Speaker it is that same upsurge in crime that we are here bringing this Bill reforming the law of preliminary enquiries and dealing with these, reforming and recalibrating the position of search warrants to give law enforcement some—just bring it back into balance, because for long, the criminal element had had an advantage.

And, Madam Speaker, he spoke at length as well about there ought to be a constitutional majority vote and he questioned—and, Madam Speaker, all these provisions that we are amending here are subject to due process of law.

Mr. Hinds: Correct.

Hon. R. Mitchell: Madam Speaker, these amendments before us, the third round of careful amendments are, as the Attorney General said, in preparation for proclamation and operationalization of this law, and from a Government perspective, there is the need to ensure that these provisions operate as seamlessly as possible, because we have learned from the snags and deficiencies that other jurisdictions would have experienced, such as the St. Lucia—well, we are copying the St. Lucian model, so other snags and deficiencies that St. Lucia would have already experienced.

Madam Speaker, clause 4 of the Bill, the amendment to section 4(1), that amendment makes even clearer, the intention of Parliament that the Act will apply

to unfinished preliminary enquiries where circumstances that arise in subsection (3)(d)—6(3)(d) of the Act apply. Madam Speaker, it is made clear now that where a magistrate was unable to complete a preliminary enquiry before the coming into force of this Act by reason of physical or mental infirmity, resignation, retirement, death, inability for any other compelling reason or in the opinion of the DPP, there is sufficient evidence to put the accused to trial and, Madam Speaker, that takes care of a very recent and unique problem that the Judiciary would have experienced.

With respect to search warrants, Madam Speaker, I agree with my friend from St. Augustine that there is that principle that a man's home is a man's castle and that no person ought to be allowed to enter a house or property contrary to the wishes of the owner or occupier of that property save and except where lawful authority entitles them to do so. And for the police, Madam Speaker, the powers of entry and search are absolutely necessary for them to engage in the successful investigation of crime.

So, Madam Speaker, in deciding whether or not to grant a search warrant, a magistrate or Master must seek to balance the rights between property and privacy rights of the individual and the needs of a criminal investigation in the interest of justice. And, Madam Speaker, the Attorney General indicated the underlying purpose for these amendments were to address the operational difficulties in pursuing justice that the police have encountered under the old regime.

Madam Speaker, under the old regime, search warrants were issued on recognizance and were generally limited to single premises only. And Madam Speaker, there is tipping-off. We accept that there is tipping-off, from the issue of the warrant to when the premises are searched. And on many occasions, Madam

Speaker, the proceeds of crime can simply be moved from premises to premises evading the purposes of the search. So, Madam Speaker, these amendments with reform in mind now seek to rebalance a bit the scales of justice, Madam Speaker, eliminating the current operational difficulties that are presently being experienced by the police. [*Desk thumping*]

Mr. Hinds: That is right. That is right. [*Desk thumping*] Simple.

Hon. R. Mitchell: So, Madam Speaker, the proposed section 5(1A):

“A search warrant may authorise the search of—

(a) one or more sets of premises...”

And, Madam Speaker, when the Member for St. Augustine spoke he, perhaps, conveniently—or perhaps he did not read it—left out to word “specified” in the warrant. In making the application for the warrant under clause (1A)(a), all the premises must be specified. And, Madam Speaker, this will be called a “specified premises search warrant”. Every premises must be specified in the warrant. So there is no arbitrariness as the Member for St. Augustine alluded to.

In (b):

“any premises occupied or controlled by a person specified in the warrant if the Master is satisfied that...”

And, Madam Speaker, this will be called an “all premises search warrant”, where the officers will now have the power to search, if granted a warrant:

“...premises occupied or controlled by a person specified in the warrant...”

So all the premises must be specified, sorry. The person must be specified in the warrant. And, Madam Speaker, you go on to (i), (ii), where there are a number of safeguards that would guide the Master or magistrate in the grant of the search warrant.

And, Madam Speaker, in 5(1B):

“A search warrant may authorise the search of premises on more than one occasion if the Master is satisfied...”

So there is no police going to any Inspector and just entering persons' premises and searching. They have to first go, swear on oath, provide certain information and the Master or magistrate must be specified—must be satisfied. [*Desk thumping*]

Mr. Hinds: That is right. That is right.

Hon. R. Mitchell: And, Madam Speaker, where the search warrant authorizes multiple searches in recognition that the criminals, technology—the criminals may evade the search, if it is just for a single search, there is tipping-off:

“...a search warrant authorises multiple searches, the number of searches authorised may be unlimited or limited to a maximum specified in the search warrant.”

And if you read into (1B):

“...to achieve the purpose for which the search warrant is issued.”

So that, Madam Speaker, there are built-in safeguards. So now, to make an application, first your application must be supported in writing and your application must be on oath and it must specify whether it is to authorize a specified set of premises, each premises must be written down or all premises controlled or occupied by a specified person.

The object of the search must be included, the number of searches required must also be indicated, whether limited or unlimited or whether the officer desires—and we have made that amendment as well—the authorization of a person or persons to accompany the officer on the search, and that they have reasonable

grounds and satisfy the Master that they have reasonable grounds for making the application.

So, Madam Speaker, it is careful, and there are a lot of safeguards in place. The main safeguard, Madam Speaker, is in the proposed subsection 5(2A), which now puts forward a statutory safeguard that the police shall, where the occupier is present at the time of execution of the search, identify himself and provide identification. And the Minister of National Security just mentioned to the Attorney General that the identification is improved, officers now have a badge. They must produce to the owner or occupier of the premises, the original of the search warrant and they must provide a copy of the search warrant to the owner or occupier.

And, Madam Speaker, the Member for St. Augustine, again, he neglected to mention that this particular safeguard is not present in the current regime, and this safeguard will assist occupiers and owners of premises from potential police abuse. Madam Speaker, it is imperative for any officer executing entry, search, and seizure to operate within the scope of the warrant, within the scope, to conform with the grant of warrants and with the provisions in this Act, Madam Speaker, because failure to do so will render the search unlawful and may potentially amount to the tort of trespass on the police officers against the owners or occupiers of the premises.

Madam Speaker, with respect to seizure and retention, the Bill proposes to amend section 5(6) of the Act which deals with the treatment of anything seized or retained, and the new proposed subsection (6A) proposes to give the Commissioner of Police the discretion to decide whether or not items seized which may form part of the body of evidence, may more appropriately be photographed,

digitally recorded or have other images taken of the thing so as to quickly return the item to its owner instead of detaining them.

And, Madam Speaker, when I read this section, this new proposed section, I think about Harris Promenade and I think about all the crashed vehicles that just occupy and litter the space on Harris Promenade opposite the police station. I think about the potential for massive amounts of storage that the State would have to undertake in expenditure in paying its rent to store all these items. I think about persons deprived of property, whether it is through thief or otherwise, who may want and desire the return of their items where these items can simply be photographed, digitally recorded or other images taken, because, Madam Speaker, prior to these amendments, the Act only allowed for the prosecutor or owner to make an application for the return of property. Now, the Commissioner of Police now has that discretion to decide whether or not items seized must be retained.

The proposed new subsection (7) retains the previous position that the prosecutor or owner of anything seized may make an application. This is also improved because it now includes digital recordings and other images along with photographs and, Madam Speaker, it sets out that:

“...the photograph, digital recording or other images...shall be admissible as sufficient evidence...”

Madam Speaker, these improved provisions take into consideration the state of technology today where digital recordings, images of hard drives screenshots, screen grabs, massive pieces of evidence, as the Attorney General alluded to, ships and cars, et cetera, may simply be photographed and returned.

Madam Speaker, clause 6(1) of the Bill is now repealed and replaced. The old clause 6(1) made provision for mandatory arrest, a mandatory arrest warrant to

be issued by the judicial officer in the case of a Master in respect of an accused where the complaint was made on oath. This new section, Madam Speaker, reverts to the previous provisions in the Act, where a judicial officer has the discretion on whether or not to issue an arrest warrant or a summons notwithstanding a complaint being on oath. So it is no longer mandatory, Madam Speaker. The Master now has that discretion.

With respect to the affidavit of service, Madam Speaker, the amendment to section 6(8), the new provision now makes it clear that proof of service of the summons would now be done by affidavit, and that would be the standard method, similar to civil proceedings so that constables do not now have to waste police time to go to court to prove the service of a summons. However, Madam Speaker, the Master may still require, in the interest of justice, at their discretion, whether or not they require the constable to appear in court to prove service.

With respect to the amendment to section 8(7), Madam Speaker, this corrects the position that a person shall without delay be brought as soon as is practicable before a Master or magistrate as he is charged—not arrested—with an indictable offence because, Madam Speaker, of course, if you are arrested, subsequent to enquiries, subsequent to investigation, the person may be released. So, we have corrected the position where the person is charged with an indictable offence.

With respect to section 11, and the amendment to section 11 is Part 2, which deals with the initial hearing. The purpose of this amendment, Madam Speaker, with respect to timelines relative to the case management of the case, is grounded in avoiding the traps and the pitfalls that were experienced in St. Lucia in their reform of these indictable proceedings. Madam Speaker, it was noted in that

jurisdiction that the pre-trial process, the initial hearing and the sufficiency hearing, did not operate seamlessly because of these unrealistic timelines. And, Madam Speaker, this shifted too heavy a burden to the High Court. What it did was simply to take the backlog from the Magistrates' Court and simply transfer it to the High Court. So these amendments, Madam Speaker, with respect to the completion of pre-trial activities, they will be subject to timelines, but a discretion is now given to the Master to give further deadlines other than the timelines stated therein in the clauses.

Now, Madam Speaker, the new 11(6) proposes that filing will be done electronically for better case management purposes. The Attorney General spoke about the reinsertion of the test—the previous test, although it is proposed in a slightly different way—that the test is *prima facie*. It is reinserted. A *prima facie* case of any indictable offence means that the Master must satisfy himself that there is sufficient evidence that, unless rebutted, would prove a particular proposition or fact. So, Madam Speaker, on the urging of the DPP, we have reinserted the *prima facie* test that must guide the Master in terms of making the decision whether to discharge or whether to commit the accused to trial at the sufficiency hearing. [*Desk thumping*]

Madam Speaker, the amendment in section 20 allows for copies to be used as exhibits save and except where the Master rules that it is in the interest of justice to produce the original or where the prosecution elects to do so, and the copy exhibits may be produced to the court in electronic format. Madam Speaker, this as well is a reform in terms of creating better case management, more effective and more efficient case flow in the criminal justice system.

Section 26B, fresh evidence. Madam Speaker, the previous position in the

Act, the 2011 Act, was that where additional evidence in support of the offence becomes available after a Master at a sufficiency hearing has determined that the accused be committed to stand trial, that evidence must be of a material nature. That is to say, Madam Speaker, the evidence must be at somewhat of a high level of probative value to the matters in issue.

But, Madam Speaker, where we now shift to relevant evidence, we have lowered the threshold somewhat. Matters must now be—in terms of the admissibility of additional evidence—they must be relative, only relevant to prove or disprove any fact in issue. And, Madam Speaker, of course, the judicial officer, being a learned legal mind, will render either admissible or inadmissible when considering, of course, the weight, the connection and the probative value of the evidence. So, Madam Speaker, those are some of the major amendments that I have identified.

Madam Speaker, in conclusion, the amendments are aimed at ensuring a very smooth transition from preliminary enquiries, as they are presently conducted in indictable proceedings, towards a more sufficient and effective system of sufficiency hearings. Madam Speaker, these amendments here today to the Act are aimed at the seamless operation and the careful and efficiently case managed sufficiency hearings, and when proclaimed and operationalized, this Act, Madam Speaker, would greatly improve our criminal justice system as promised by this the Government. [*Desk thumping*] It will benefit all stakeholders: the police, the DPP, the Magistracy, including the number of prisoners on Remand and the time spent on Remand and their families, Madam Speaker. I congratulate the Attorney General, I congratulate the Prime Minister and all those on this side [*Desk thumping*] because when this is operationalized, this Government can boast that we

have reformed the criminal justice system. Madam Speaker, I thank you. [*Desk thumping*].

Dr. Roodal Moonilal (*Oropouche East*): Thank you. Thank you very much, Madam Speaker, for the opportunity to contribute on the Administration of Justice (Indictable Proceedings) (Amdt.) (No. 3) Bill, 2019. Madam Speaker, I have listened attentively to the gentleman from San Fernando West, indeed our colleague from St. Augustine, and before me, the Member for San Fernando East on this matter. If I sound, Madam Speaker, slightly tired, it is because I am after a weekend of flooding and seeking along with councillors and fellow MPs to bring relief to the people of south Trinidad in the absence of any Government intervention. [*Desk thumping*]

3.45p.m.

Madam Speaker, today we meet to discuss a very, very important matter, a matter that the Attorney General flagged indeed in a newspaper article of Sunday, December 15th in an article, “New, exciting features for the Parliament” and “Last sitting at Waterfront Complex”, A6 news of the *Sunday Guardian*, December 15th. The Attorney General took the opportunity while being interviewed on the Red House matter to indicate that we are meeting and he would be slightly inconveniencing Members of the other place to get to Parliament to decide on this Bill before us to further clean up, in some way, this matter of removing preliminary enquiries. The Attorney General, Faris Al-Rawi, confirmed the Government will close Parliament but indicated that we had to meet to deal with the preliminary enquiries Bill:

“We want to abolish PIs in January and if we wait for the Parliament to resume, we might be looking at the end of January. We need to get rid of

roadblocks in the system and there can be no greater roadblock than the PI system,' he said."

So we were alerted yesterday by way of this article.

Now, why not February, why not March, why not any other time if it is that the Parliament is going to be relocated and the Parliament staff and all the units, and so on, would need extra time and space, and so on, to carry about this very important movement? May I remind colleagues that the Parliament came here after the hard work of the People's Partnership administration [*Desk thumping*] to present adequate resources and facilities for the Parliament when we began that project of the restoration of the Red House and accompanying buildings, so that we are extremely happy to have made this facility available to Members of Parliament and to all governments over the past few years.

Madam Speaker, so we had to be hurried somewhat to come on a day outside of our normal weekly cycle of Friday, we had to be hustled to come here and corralled to listen to the Attorney General. I wanted to begin by being very forthright and being very honest in a very humble way, because I cast no aspersions on anyone. I wanted to ask the Attorney General in a very humble way, whether or not with the introduction and passage of this matter today, whether or not the Attorney General himself is a witness in any matter before the court in a preliminary enquiry and whether the Attorney General finds it fit at this moment, at 3.47, given that the Attorney General piloted this measure and would have had so much to say because of the complexity of this matter, whether the Attorney General will indicate to the Parliament on record now whether or not he is in any way conflicted or may have any interest in this matter occupying the Parliament time if only for the record because later on something else could be said?

Mr. Attorney General, would you declare that now?

Mr. Al-Rawi: Sure. I have certainly made in my capacity both prior to becoming Attorney General and now, reports to the Trinidad and Tobago Police Service. It is therefore reasonable to assume that they may call upon me, as they may very well call upon the Member of Siparia in particular, [*Desk thumping*] the Member for St. Augustine in particular who just spoke and several other Members of this Parliament, because I am aware of the following matters, LifeSport, everybody opposite; “Prisongate”, and a number of other matters. So I can say, quite confidently, that many people in this Parliament here may potentially find themselves giving evidence. As of now I am not certain—[*Interruption*] As of now I am not certain that I am in fact one but I know that there are investigations that concern many Members of this Parliament possibly giving evidence. [*Desk thumping*]

Dr. R. Moonilal: Thank you very much. And, Attorney General, you are welcome because you will be grateful that I pointed out that very early in the proceedings, because the effect of this could well be, given what you have said, that you will not appear in a matter in a preliminary enquiry to give evidence, but the process will take a course where your statements may go for a sufficiency hearing or may go further but you will not be required to be in a preliminary enquiry matter where you may be examined and cross-examined in any matter arising whether in January or February. And I thought it very useful that the Attorney General should go on public record to indicate that this may affect his own statements and his own conduct in proceedings that may be before the criminal court.

We are happy that you will indicate that other Members may also be

involved, and so on, but I was very concerned that you piloted this Bill and inadvertently did not disclose that it could be—that you may be a witness in a matter. It was inadvertent, it would not have been deliberate [*Desk thumping*] and it would certainly not have been malicious. So, Madam Speaker, I can move on from there.

Mr. Al-Rawi: Would you give way for a moment?

Dr. R. Moonilal: If you would like. Would you promise me you would take 15 seconds or less?

Mr. Al-Rawi: I promise I would be very brief.

Dr. R. Moonilal: Thank you.

Mr. Al-Rawi: Madam Speaker, just for the record, I am not in a beneficiary position in respect of any matter and therefore I am in no conflict of interest for the record. It was a speculative question, I thank the Member for giving way, but for the record, I have nothing to declare. There is no conflict of interest. [*Desk thumping*]

Dr. R. Moonilal: Thank you very much, Mr. Attorney General. I would move on from that because, you see, the effect of this is that we are changing the system where persons who are witnesses in a traditional preliminary enquiry process will not go to court, may not be required to go to court and so may not face a stiff cross-examination [*Desk thumping*] by any Senior Counsel operating in the Criminal Division. And that is very important and I took note of it, particularly when I heard of this January 15th deadline, I asked myself, “What other matters were coming up in January” and one or two came to my mind via some colleagues.

Madam Speaker, the matter is extremely important before us, very, very important, and I just want to pick up on a few comments made by the gentleman

from San Fernando East, who I suspect was also not prepared to speak and was called upon by the very merciless Chief Whip to present. They began by castigating the colleague from St. Augustine about we are bringing First World measures here but took offence when we raised issues of Third World conduct and Third World environment. Madam Speaker, we did not have to go too far, there is an article in the *Newsday* today, “Banking on chaos”, written by prominent writer and, I think, journalist and environmental activist, Paolo Kernahan, in which he sums up the current atmosphere and he says—Madam Speaker, I do not want to quote all in my limited time, he says:

This—“Government has become an agent of chaos.”

[*Desk thumping*] Paolo Kernahan, writing in the *Newsday*, page 13, Monday December 16th, today.

So it is not the Opposition that is saying this alone and raising concerns about the conduct of business. Paolo Kernahan made reference, he says in this country you line up for gas, you line up for Venezuelan registration card, you line up in the bank to change your \$100 note, you line up for—something else within recent—food card, passport, and he says this Government is really an agent of chaos. They sit down and they plan. What next could we do to distress persons? [*Desk thumping*] What next could we do? What else, I mean, Christmas is so beautiful a time. “We do not want you on the street listening to parang and having a beverage, go in the bank and face that line.” Madam Speaker, I passed eight o’clock a morning by Gulf View, bank opening 10 o’clock, it had 50 people in the line outside and another 50 inside; that is the chaos that we live. That is not—and I am coming back to the point of San Fernando East—that is not conduct in a First World environment; it is not. [*Desk thumping*] That is not that type of conduct.

You look at every point raised and when we raised the issue of the police conduct it is serious, and I will come quickly to a point raised.

I noticed within recent time, and it may be because of the very vivid and energetic conduct of the Commissioner of Police, I noticed, you know, this preoccupation now with the badge and in this discussion we are putting into the law that the police officers must have their badge and show their badge, police officers always had identification. It was a card that they had in their pocket or in their wallet, and if you ask the police officer, he pulls out the card and he shows you his card. But you know what police officers did, Madam Speaker, in the year 2000, 2001, somewhere there, I am in an election campaign, I confronted what happened, what may appear to be, you know, a police officer who was adamant on a particular issue; I raised the matter with the police officer, I said, “Mr. Officer, you are talking to me here, I am a candidate in the election, could I see your identification, please?” San Fernando East, he took out the card and he showed it and started to shake it like this. [*Member gesticulates*] I say, “But I cannot read that”, he said, “But I am showing you the identification”, which he did. Up to now I do not know if the person is John James or James John, or Randall Mitchell. [*Laughter*]

Madam Speaker, I do not know the name of the person but he did show me his card. He was doing so. [*Member gesticulates*] Police always had an ID card, all you are doing now is you are creating a very nice Americanized and Westernized concept of a badge and you wear it around the shirt, and so on, and it will be visible, the badge. But even there you need to get the proper name, regimental number of a police officer in the conduct of their duties. [*Desk thumping*] And you will always have officers like the one, Mr.—I would not call

his name because I later discovered it. You will always have the conduct of police officers like that, that we have to prepare. We are living in the real world. And, you know, colleagues bring legislation, the Attorney General, about eight times, “This is a PACE, this is PACE”, and someone listening outside, “What really is PACE?” We assume that everybody went to law school and everybody did the year one criminal law, which is so hard to pass. Everybody did that course so we all know PACE, it is Police and Criminal Evidence Act, 1984, of the English—of England and Wales.

So we make law and assume everybody knows what is that, and unless you did not really study first year criminal law, I do not know who else will know what is PACE. But we must always return to brass tacks, this is what we have in the society, this is what we are preparing to do and this is the change we wish to bring. The other thematic that comes out that I want to address very quickly here is that the Government has been continuing a policy objective of the former Government, the former People’s Partnership administration, to reduce this backlog of cases in the Magistrates’ Court, and so on, throughout the legal system, and that is a noble object. Every government trying to do that, I think, since 1997, somewhere there. Everybody trying to do that; that is fine. One way they are doing it is to change the law, fundamental changes to the law that takes certain offences away, so you reduce the backlog because you are removing it as an offence. It reminds me of years ago when a former administration introduced the University of Trinidad and Tobago the entire society was so excited, the University of Trinidad and Tobago, so we then started to drive all over the country to look for the University of the Trinidad and Tobago. They removed the name of San Fernando Technical Institute, John Donaldson Technical Institute, Corinth Teachers’ Training College,

Valsayn and Valsayn Teachers Training College and that was the University of Trinidad and Tobago—

Hon. Member: TTIT.

Dr. R. Moonilal: And TTIT.

There was no new building or structure built but they changed the names of the building and you create something. In this area as well what you are doing is reducing the backlog by changing the law. So it is not that you are dealing with the 146,000 cases [*Desk thumping*] because you have suddenly had some great efficiency in the system, more persons are appointed, more courts are in session, and so on. You will by law remove half of them because you are going to decriminalize here, remove this from this person, put it to that person, and so on, and that is how they are approaching the business.

Madam Speaker, I also wanted to put in the introduction that sometimes we talk and we forget that preliminary enquiries, as much as we would all like to get rid of it and we all have this policy objective, as if they serve no useful purpose, as if they never had a use in life so we come today and over the years we do it, but we must remind ourselves of the usefulness and the purpose of the preliminary enquiry in the first place. The formal purpose of a preliminary enquiry is to determine if the Crown or the State has enough evidence to justify a trial. It is a safeguard that is built into the system to ensure that people are not put in jeopardy of being convicted in a trial without the State or Crown having sufficient evidence to prove the case. So there was always a value to that, and I want to underline the word “safeguard” because when we change the system we must also have this principle of safeguarding the rights of citizens. [*Desk thumping*]

We must have this principle that we are not putting persons in jeopardy to be

convicted in a trial without the State having sufficient evidence to prove the case. [*Desk thumping*] And the Member for St. Augustine who of all days needed more time today to speak of his experience in the court with preliminary matters, for murder, and so on, where we went to the court and the court said that, “Listen, there is no case to answer.” The Member for Caroni East, I beseech him from now not to be emotional when he finally takes the floor because he had been before the Magistrates’ Court—

Dr. Gopeesingh: And the High Court.

Dr. R. Moonilal:—in a preliminary matter in which the magistrate, the court ruled that those charges were not known to the law. Imagine if we did not have safeguards or we change our system without this respect for safeguards that the colleague from Caroni East could have faced a judge and jury. [*Desk thumping*]
[*Crosstalk*]

Dr. Gopeesingh: I would not be sitting here today.

Dr. R. Moonilal: He would not have been sitting here today because, you know, with jury, and so on, that is a completely different kettle of fish, what would happen, what could not happen, and so on, and thank God for a preliminary enquiry process that the Member for Caroni East is here to contribute later. [*Desk thumping*] And sometimes in doing this we forget that that was a safeguard and when we change the system we must also place safeguards to protect the rights of all citizens. [*Desk thumping*]

When you are in Government sometimes you are so eager, you are so anxious to change that you know what you do?—in your anxiety to bring change you forget right, you forget rights, and today I am happy to know that the Attorney General announced that there are amendments to these amendments. I again—I

emphasize when I read the Bill, it was No. 3 of 2019, and when we come with the amendments today we have amendments on these amendments. And if I am not mistaken some of these amendments amend earlier amendments. [*Interruption*] Correct. That is correct. Yeah, that is correct. [*Crosstalk*] I am not mistaken that we are really amending what we amended before now. That speaks to something else, it speak that the Attorney General is full of zeal but lacks patience, and I will not go so far as to accuse the Attorney General of incompetence. I will just say that in the zeal to get a job done, in the zeal to getting it done it was overdone and we had to come back here for more and more amendments, and it does not speak properly. [*Desk thumping*]

It is not good that the Government in one year must come to amend amendments. It suggests that things have not been well thought-out, [*Desk thumping*] that you have not considered. And I bet you if we go into the *Hansard* record, some of these amendments on amendments, the Member for Siparia and others would have warned the Government that it cannot work that way. I bet you. [*Desk thumping*] And I have done that research as well but time will not permit now to read from *Hansard* where we warned of certain conditions. But, Madam Speaker, another approach that I want to take, which is really the approach of San Fernando East as well is that, I think, given the fact that we are amending an amendments and then amending a parent Act, it is very, very important that we read the exact wording of these amendments so that when we talk we would refer. Madam Speaker, the problem here, as colleagues before suggested, and as the Member for San Fernando East of all people suggested, Madam Speaker, he said we were borrowing from PACE, and so on, is that we are giving certain powers now to the police to work with the Judiciary in a society where we have had the

fear, we have had the victimization, we have had open abuse of power and authority, we are giving more and more power without checks and balances, and that is a serious matter, and I am referring specifically to section 5, the amendments to section 5 of the parent Act as proposed today.

I look at (1A) for example:

“A search warrant may authorise the search of—

one or more sets of premises specified in the warrant; or

any premises occupied or controlled by a person specified in the warrant if the Master is satisfied...

because of the particulars...”

And it goes on. It is not:

“...reasonable...

...practicable to specify...the application for the search warrant all the premises which the person in question occupies or controls and which might need to be searched.

A search warrant may authorise the search of premises on more than one occasion if the Master is satisfied that it is necessary to authorise multiple searches in order to achieve...”

Madam Speaker, today I want to talk as a victim now. You see, it was one year and one month ago that the WPC from Arouca/Maloney announced to the world that my name was on a search warrant so I may have been the first victim of this, because in one year I have waited; I have looked out. Madam Speaker, if an ambulance pass I remember Arouca/Maloney. [*Desk thumping and laughter*] I remember her if an ambulance pass, and, Madam Speaker, had I not been a man of stout constitution and mental toughness, [*Desk thumping*] I would have collapsed

as well. And had I not known the Member for Arouca/Maloney as I know, I would have taken her seriously but I know her and I know what tricks, you know, prevail in the world of politics.

Mrs. Robinson-Regis: You “doh” know all my—[*Laughter*]

Dr. R. Moonilal: Madam Speaker, I am trying to refer to you. [*Crosstalk*]

Madam Speaker: Okay, so, as I say, I always relish when we have light banter but, again, I will ask Members to comply with Standing Order 53. Please continue, Member for Oropouche East.

Dr. R. Moonilal: Thank you.

So, Madam Speaker, what happens to someone now—I am coming to the fact of this Bill, it is not everybody will be tough as I am. It is not everybody who took 20 years to prepare to deal with the brutality of the PNM. [*Desk thumping*] I was trained for this. Madam Speaker, you are creating a law where you are giving this power for one or more sets of premises, not only owned, occupied and/or controlled by a person. So you will define the person, whoever the person is, but you will now have to give a power that you may not state the premises; that is the issue. You see, while you state the person you are not stating the premises that are occupied, controlled, owned and/or, and/or, and/or. So you search persons now, and if we discover that, as the Member said, a warehouse is nearby, a compound next to the person is located in close vicinity and that person also controls and/or occupy, you search there one time—

Hon. Member: Or visit.

Dr. R. Moonilal:—or visit, because this is what you will also be doing. When you look at the issue of control, how do you establish at first glance that the person has some control, is the person visits the place.

Maybe the person walks with a bag or maybe the person goes with a vehicle in a particular compound so you have reason to believe that that compound, that premises is under the control or partly under the control of the person named in the warrant, and then you carry on this reign of terror against a person, and unnamed premises where other persons, innocent citizens may be involved as well, and we are asked to accept one or more sets of premises. But, Madam Speaker, this cannot be right. [*Desk thumping*] If the police have done their work, as they ought to in conducting an investigation, they will be clear that person X is living here—[*Desk thumping*]—I am just going to use places wildly now—is living in San Fernando but has a warehouse in Point Fortin, has another house somewhere under his or her control and they will specify that in the warrant, that on this particular day we will search the three places at the same time, so the person has no time to run between Point Fortin to Arima, they are searching at the same time. Good police work will lead you to do that. [*Desk thumping*] And it is troubling as well that when Government Members and the Attorney General come to the House with matters like this, we do not get the benefit of data to tell us that this has been a problem with the police service and they have now assessed that 25 per cent of their investigations into narcotics are undermined by this loophole. We do not know. We just do not know. And then we come under the veil of, “Everybody want it”. “We talk to everybody and they want it”, but everybody cannot want it. We must want it and wait on the [*Desk thumping*] balance of defending the rights of citizens and getting the efficiency for the criminal justice system.

It cannot be that everybody wants it. In fact, I will be suspicious if everybody wants it. And time and time again the Government will come and say, “Well, we consulted with this Government agency, that Government agency and

the other and they recommend that.” And, again, if we do not get that, as Paolo Kernahan says, if you do not support on one way you are either a criminal or money launderer or selling [*Crosstalk*] “pholourie”. Madam Speaker, this matter is dead serious and we call upon the Government to revisit this, this matter of sets of premises, and so on. Madam Speaker, the other matter is time which we raised as well. You are authorizing a search without some type of time frame, so you are not constraining investigators to conduct a search on a particular matter in a particular time so that could be any time, and leave it to the discretion of persons who have no discretion or who choose deliberately not to exercise discretion to decide when, how often. So what will happen now, Madam Speaker? It happens, and this is why I beg persons to please live in the real world when you make law, [*Desk thumping*] try to live in the real world.

A vindictive police officer has a “bee in the bonnet” for a businessman in the area who may not have helped with some function and you decide, well, you are searching, “Well, we are searching that place four times for the week.” Many persons do not understand that when you search a house or a business place probably more than a house, you stigmatize the business. This is Trinidad, people love to believe bad. They love to believe bad. So police vehicle park up in front their business searching on Friday, they come back on Wednesday; the warrant allows them to come back on Saturday, and they come back on any day and the business collapse because people looking on and thinking, “Well, look at that, this man is involved in drugs, in human trafficking, in trafficking in firearms, I not in that. I not going to be part in that. I am not contributing to that business.” Madam Speaker, it happens, you hear it all the time, businesspersons tell you this. Customers tell you that as well, because the other thing is a customer do not want

to be in a shop and police raid the shop, a supermarket or an appliance shop, or a hardware or something, and police raid the place and you are there as a customer and caught up for an entire day in all type of process, and so on. And if they find, according to the laws which we are passing now—and I want to repeat again, this Opposition has supported this Government on 90 to 95 per cent of its legislation [*Desk thumping*] to deal with crime; we support that. So do not come today and argue that we do not support because, you know, of this, that and the other. We support you.

You came just the other day with legislation to change out these \$100 bill, they were shocked, they could have lost a bet when the Member for Pointe-a-Pierre stood up and say: “Look, we support this thing”, talk done. They were shocked, but we supported it because it came as a national security measure and we understand the need for that. The issue is whether that is being managed properly. [*Desk thumping*] And, Madam Speaker, I want to tie this to the Bill today. We have had robbery upon robbery upon robbery of persons either leaving—I know of three because every day one is highlighted. Madam Speaker—[*Interruption*] You will respond in good time, Laventille West, you will have your time. [*Crosstalk*] You have had this—[*Interruption*] Madam Speaker, you have had this—

Madam Speaker: Continue, Member for Oropouche East.

Dr. R. Moonilal: Thank you very much. Madam Speaker, you have had this occurrence taking place, well, I want to tell you, it is not whether it is three or six or 10, it is happening. [*Desk thumping*] There is a certain insecurity now by persons lining up.

The police are using their resources to the full extent. In fact, they are being pulled left, right and centre in this circumstance, Madam Speaker, and all the

resources they can get they need to deal with this threat that we face now because of a lack of planning. Now, you are coming now to give the police greater powers now in a situation where they can abuse as we have had cases of abuse. And I am very happy that the Attorney General spoke earlier and said he had amendments to make to safeguard. We have not seen those amendments yet, but I assume that as we go along the Attorney General would bring it. Madam Speaker, another critical issue to raise here is this matter of using electronic documents and computer technology, and so on, and all of us confess, Madam Speaker, that we do have a situation where the court system in particular—

Madam Speaker: Member for Oropouche East, your original speaking time is now spent. You have 15 more minutes to wind up.

Dr. R. Moonilal: Thank you very much.

Madam Speaker: Please proceed.

Dr. R. Moonilal: Thank you. [*Desk thumping*] Madam Speaker, we all agree that over the years the court system and the justice system has been a bit slow and tardy in responding to the crisis, you know, and the change, the necessary change required to move to a more high-tech IT-driven environment, but I want to state categorically that the proposal to allow persons to be tried on a copy of a document cannot be allowed.

It cannot be allowed that we allow copies of documents to be used to put persons on trial.

4.15p.m.

The Member for San Fernando East made an interesting point and then sought to undermine his point. He said well, he is thinking of Harris Promenade and all the cars, stolen cars and materials that have to go to court—the Attorney

General alluded to it as well—and said from now on we would have electronic documents, and photographic evidence, and so on. So no longer you have to drag the car by the court, or take the court to look at the boat and so on. But, Madam Speaker, the law also says that there is an option; that if you exercise the option to see the evidence, the real evidence, the original evidence, the court would allow that. So you still have to store. You still have to use money for storage. You still have to keep all the devices and papers that you thought you would get rid of. All the exhibits must be kept. Whereas you can go to the court with electronic documents for evidence, you still have to keep it. So it does not take away that point of storage, of facilities and so on at all.

There is a particular case of January 2019, this year. There was a raid in the Pleasantville area, and police confiscated a lot of materials, including cell phones. It is being kept at the Mon Repos Police Station in San Fernando. They asked persons to identify stolen properties and persons went to the station, identified. A gentleman, a business man from San Fernando, indicated that the telephone that they stole, and the one that he clearly sees there and identified as his own, the police had no difficulty that it is the property of the business person. He said but the material there is critical for my business, and I am now suffering, my business, because I do not have that material on the phone, because today a phone is essentially a computer. Your smart phone, when you pack it up with all the mega whatever and so on, it is now a computer. Your documents, your invoices, your banking data, your correspondence with business people and so on, they are all stored on your phone. If you lose that you are in trouble. The irony is that it was found, given to the police, but the police say, look, we cannot return this now. This is evidence it has to go to court and you cannot get it back.

But now—[*Interruption*]—hold on, I am asking the question now: Will this change that? I am not sure. You can take a camera photographic evidence of the phone and maybe other type of materials as well, but the law says that if it is still required you can ask for it. But I am not sure if the person takes back his phone and interferes in that sense with his phone, with that gadget, if it could return to court 10 years later as evidence. I am not sure. Again, it depends on so many things, but the long and short is I am not sure that that could remain, because it will not stay in its present form. The gentleman could take it back and throw it away for all you know. It is not preserved that way. So there is a little as to whether or not this will help in terms of keeping material. Surely in the courthouse it helps in terms of some measure of efficiency.

Madam Speaker, yes, 5, we spoke about these. This issue of multiple searches is a matter that we hope that there is some type—well first we hope that it is withdrawn completely, because I do not think any amendment that you proceed to give us can cure that wide power that you give to police for multiple searches. We talked about multiple premises earlier, but now this issue about multiple searches is something that it goes contrary to every principle of the protection of your constitutional right to property, equality before the law. [*Desk thumping*] Because it is essentially a “go back and search” mechanism. What this is saying is go back and search. How often can you do that? And we are dealing—sometimes not everybody is a criminal, not everybody is made for this world, this tough world that we live in.

You are going back into people’s places for multiple searches. If this is not tamed, you can create a police State where you harass certain people. It has happened in other parts of the world. I do not know if you do not read the same

Internet reports and so on. There is another country in the world where they introduced legislation like this. Do you know the first person “dey raid”? “Dey raid” Opposition politicians’ office, under a particular unit in a Ministry of Finance. “Dey raid de Opposition office. Dey raid Members of de Opposition, and then dey went back a few days later to raid again, because they did not find something that they thought they should have found.”

Madam Speaker, you do not weaken the Constitution under the guise of trying to strengthen the fight against crime. [*Desk thumping*] You do not reduce people’s rights that way.

The Member for San Fernando West told us about all the good works that the Government is doing. Renting this building “for court” in Fyzabad, renting a building “for court” elsewhere and so on. But I must remind the folks that we have a matter in Rio Claro, I believe it is the Magistrates’ Court there. That is operating like a junior sec shift system. Essentially it is a junior sec, the court. You go in the morning between nine and 10 to conduct some business for one area. You go in the lunch time afternoon to conduct business for a next area. You are running a junior sec court; Princes Town, San Fernando. Instead you take the effort and work on this serious problem of infrastructure, you come now to give people multiple search and multiple premises. [*Desk thumping*] The Rio Claro court is in a mess. In fact some colleagues may not know, because sometimes these things are not known to all. But the Rio Claro Magistrates’ Court has from 9.00 to 10.45 they do the business there, they conduct matters out of a list. A prisoner on a murder charge who is brought at 10.30 has 10 to 15 minutes for his case to be heard on a given day before he is sent back to prison. The First Magistrates’ Court between 11.00 and quarter to one they operate, then a second round emerges.

Madam Speaker, this is a courthouse in Trinidad and Tobago operating this way. I ask the Member for San Fernando East is this First World? Give me an example in the United Kingdom where they have a junior sec court operation on the way, and then accuse us of crying down. But this is the reality. You have problems in San Fernando. You have problems somewhere else. It was Rio Claro, San Fernando and somewhere else. Is it Tunapuna?

Mr. Indarsingh: Chaguanas.

Dr. R. Moonilal: Chaguanas. You should have created some sub Cabinet committee to work with the Judiciary and the project managers and get all of these courts constructed and reconstructed and up and running, [*Desk thumping*] instead of coming now to give power to raid your house five times a week, and to raid every other building that you visit. I heard a “sniggle” when I said every other building you damage—you visit.

Mr. Indarsingh: If you go by your pumpkin vine family.

Dr. R. Moonilal: Madam Speaker, the other matter raised I just want to respond briefly. I agree with the Member for St. Augustine that a raid on your home, a search on your home or your business is really an act of—in a strange way it is legal terror, because you acting according to the law, but the viciousness that comes with that is like beast descend upon you. There is a famous case in Mohammed Ville, San Juan where they raid the homes, and in coming in they damaged the nose and the face of an occupant there. Damage and destroy door, damage and destroy man under the guise of searches. Could you imagine when the family go and make a complaint now to a complaint authority or the media, they say, “Okay, I think we forget something, we coming back tomorrow,” because we now have in the law that power to do that.

You have to balance the interest of justice with the rights of citizens. [*Desk thumping*] Balance that carefully. Understand the society in which we live. You cannot put laws like these in a country where you are still battling to reform the police service. In this administration their days are so few and precious, they are in the final year. Within one year of demitting office, they come now they have nothing to show. Well they have nothing good to show. And they come now to bring all these changes, so they go to the population and say “Look, look what we have done. We reform this and reform that, and reform that, and you reform yourself out of office. [*Desk thumping*] Because the last local election they got what? Madam Speaker, they got 40,000 less than the United National Congress in the popular vote. We won the popular vote. The Member for Siparia got the most votes; that is a fact. All the reform you are talking, nobody is believing you.

Mr. Hinds: You did not like it though.

Dr. R. Moonilal: Laventille West, we will deal with you another time. You also have a matter in the Magistrates’ Court in which he is a witness as well. And if you speak, you will have to say when you go to the Magistrates’ Court, where you took two of your constituents to court, whether or not this will also affect you in any way, because the Member for Laventille West is a visitor. And he failed to visit the court on four occasions telling them “he have Cabinet”. [*Interruption*]

Mr. Mitchell: Madam Speaker, it is sub judice.

Madam Speaker: Members, you see I do not want the Member for Oropouche East to be injured in the time for his contribution. Please proceed.

Dr. R. Moonilal: Madam Speaker, thank you. I assure you, no one opposite can injure me, and no water flung in my direction can injure me as it injured Laventille West. [*Desk thumping*]

Another issue that needs perfect clarification here is this matter, which the Member for San Fernando East in his preliminary discussion, raised the issue of relevant and material. The Member for San Fernando East said it, to quote him, he said, “Yes, we are lowering the threshold by using that term.” So imagine, you are giving more power to the police, draconian powers. You are giving them this power to go—and you know, we like again to protect ourselves with another skirt, another sari, “The Master will decide; the judge will decide”. But they decide based on what is coming before them. The Master and the judge is not going to conduct an investigation. They decide based on what you give them to read. So if you give them to read something about San Fernando East, they say, “Go ahead, find de house, search it.” That is what they decide.

So this is the point of dealing with the bad apples in the police through your manpower management structure, and your reform of the police service. In fact, you should reform the police service before you even consider introducing this kind of legislation. [*Desk thumping*] Now, giving the power and now you come to say, well we are removing now from material to relevant, and relevant “lower” the threshold. So you get more powers, draconian powers, and the threshold lower, to abuse those powers. Could that be right? It cannot be right.

Madam Speaker, in the final minute I will make this point: The question is not the law. The challenge this Government faced for five years—how much years there four?—on your last leg the challenge you face is not passing law. You passed law, you amend law, you amend the amendments. The challenge you face is you cannot operationalize the law. You cannot give flesh and blood to the law because of this weak capacity to administrate, this weak capacity to deliver, and it shows in every area, but we are here with the criminal justice system. If you

cannot operationalize the law there is no purpose in coming to Parliament in the Christmas season when we should be busy bringing goodwill and cheer and so on, good tidings and peace. Madam Speaker, it makes no sense you come here to just say you passed law, when you cannot operationalize the law. You cannot give effect to the measures you pass because systems are not in place, institutions are not working, Magistrates' Court is on a junior sec system, and these amendments if not properly—

Madam Speaker, may I end by saying, the Government is like a Junior Sec system and very soon your own shift will come to an end, and another party will come in to take off from where you left off. Because the only salvation this country has today is that their time is limited, they are under a year. The flood victims will not cry. The flood victims will share their anger. The flood victims know that the time is coming when they will be out, and even that will end. Even the pressure and the suffering that they faced over the last few days will end, because they are within eight months to ten months or so of demitting office.

As they pass law they may well reflect on their lack of care. Their neglect for the constituencies in south, primarily Oropouche East, West, Naparima, Siparia, where they failed, wilfully neglected the people there, to bring any aid and any relief, emergency or otherwise to the people of that region. If you continue like that, like the fortress in Penal/Debe you will be locked out from every other constituency on the face of the earth. [*Desk thumping*]

Madam Speaker, with those very few words, I thank you.

Madam Speaker: Hon. Members, it is now 4.28. Might I suggest we take the suspension now? This sitting is now suspended. We return at five o'clock.

4.29p.m.: *Sitting suspended.*

5.00p.m.: *Sitting resumed.*

ARRANGEMENT OF BUSINESS

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

Madam Speaker, in accordance with Standing Order 50(3), I beg to move that the debate on the Administration of Justice (Indictable Proceeding) (Amdt.) Bill, 2019, be adjourned to later in the sitting in order to revert to Urgent Questions.

Agreed to.

URGENT QUESTIONS

Madam Speaker: Hon. Members, you will recall that responses to Urgent Questions No. 2 to 4 were earlier deferred at today's sitting. I will now call upon the Member for Couva South.

Bankers Association of Trinidad and Tobago

(Waiving of Standard Fees)

Mr. Rudranath Indarsingh (Couva South): To the Minister of Finance: Could the Minister inform this House if he has realised any success as it relates to dialogue with the Bankers Association of Trinidad and Tobago relating to the waiving of standard fees imposed for the changing of the \$100 note?

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, a request was made to the banks with respect to the waiving of fees, particularly for the elderly. In the commercial banking sector the fees vary. Some banks have no fees at all for these transactions, whereas some banks do. Some banks do not charge senior citizens as a matter of practice.

The banks have all agreed to consider the request, and I expect within the next day or two I will receive a more positive response. But at this time, I am told that several of the banks are not charging any fees, and others are not charging senior

citizens.

Mr. Indarsingh: Thank you, Madam Speaker. Minister, as you gave your response, does it also include—and I know that you said this is an evolving dialogue—in terms of the different stakeholders, the physically challenged and so on in our society?

Madam Speaker: I am not going to allow that question based either on the answer or the response. Any other supplemental questions?

Mr. Indarsingh: No.

**Floods in Southern Communities
(Financial Compensation for)**

Dr. Roodal Moonilal (*Oropouche East*): Madam Speaker, question No. 3 to the Minister of Social Development and Family Services. With respect to the devastating floods in several southern communities last week, could the Minister indicate when victims can expect to receive financial compensation for their loss of essential household items and damage to property?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. The Ministry of Rural Development and Local Government and the ODPM are two of the key first responders in any natural disaster that affects the country. The role of the Ministry of Social Development and Family Services, following clearance and the submission of damage assessment from the first responders, is to provide financial assistance and support to disaster victims via grant funding. Food support and psychosocial support, including counselling services, as required. This happens upon receipt of damage assessments from the Ministry of Rural Development and Local Government, and the Ministry of Social Development and Family Services thereafter seeks to have the claims processed in the shortest possible time.

Madam Speaker, the disaster relief assistance is provided to victims whose items were destroyed beyond repair as a result of natural or manmade disasters. This assistance includes household items up to a maximum of \$10,000, and these items include refrigerators, stoves, wardrobes, living room set, bed complete with mattress, washing machines, chests of drawers, kitchen cupboards, dining room sets. A clothing grant of \$1,000 per person, school supplies grants of \$700 for primary schools and \$1,000 for secondary schools. This grant is intended to assist children who are attending primary and secondary schools, whose books and/or uniforms were destroyed. There is also—

Madam Speaker: Hon. Member, your time is now spent.

Dr. Moonilal: Thank you very much for the information. Could the Minister indicate whether or not the financial compensation, as per the policy, would be provided to affected residents before the Christmas holiday?

Hon. C. Robinson-Regis: Madam Speaker, as I said, once the information comes to the Ministry from the Ministry of Rural Development and Local Government and the ODPM, with the requisite information and the national ID cards, and the completed forms are sent in to the Ministry, we will do everything in our power to ensure that it is provided expeditiously.

Dr. Moonilal: Minister, could you provide an assurance that the residents of the Penal/Debe area will be treated in the similar manner as residents in Greenvale, where they can obtain replacement furniture and appliances in a timely manner?

Hon. C. Robinson-Regis: Madam Speaker, as I said before, the disaster relief assistance deals with household items up to a maximum of \$10,000, and it includes refrigerators, stoves, wardrobes, living room sets, beds complete with mattresses, washing machines, chests of drawers, kitchen cupboards, dining room sets, a clothing grant of \$1,000 per person, school supplies, \$700 for primary schools,

\$1,000 for secondary schools. As I said before, once the information comes to the Ministry, it will be dealt with expeditiously.

Madam Speaker: Member for Oropouche East, question No. 4.

Commercial Banks in T&T

Shortage of Smaller Denomination Bills

Dr. Roodal Moonilal (*Oropouche East*): Madam Speaker, question No. 4 to the Minister of Finance. Is the Minister aware that the current shortage of currency in denominations of \$5, \$10, \$20 and \$50 bills at many commercial banks is having a crippling effect on businesses today?

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, I think the question is a bit of hyperbole and exaggeration. There is no crippling of anyone. Some banks have reported that due to heightened demand for the exchange of the old \$100 bill some clients requested and received smaller denominations in exchange for the cotton or paper \$100 bill. As such there was a reduced supply at some branches of some banks towards the end of last week.

The banks have advised that they are in process of restocking the smaller denominations today in the more critical branches, and expect to have this rectified in the main across their networks by tomorrow.

Dr. Moonilal: Can the Minister give an assurance to the small business sector, particularly the retail sector, that the notes five, 10, 20 and 50 will be available at commercial banks tomorrow?

Hon. C. Imbert: I repeat, Madam Speaker, the banks have advised that they are in the process of restocking smaller denomination bills today in the more critical branches, and expect to have the issue rectified in the main across their networks by tomorrow.

Dr. Moonilal: Is the Minister prepared to take any action to assist flood victims

who themselves cannot go to the banks to exchange their notes due to flooding, and so is the Minister prepared to initiate a policy for an extension of the time to exchange notes?

Madam Speaker: I am not going to allow that as a supplemental question on the question that you asked or the responses that were given.

ADMINISTRATION OF JUSTICE

(INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2019

Madam Speaker: Hon. Members, the debate on the following Bill which was adjourned a little earlier today will be resumed.

Hon. F. Hinds: Thank you very much, Madam Speaker. In quick response to my colleague for Oropouche East, he was crass enough to have mentioned that I have a matter in court, demonstrating the two-facedness and dangerousness as a penchant for my friend from Oropouche East. Indeed, I do not have a matter in court as if I were charged. I am not even suspected or being investigated for anything like some of my friends. I am a victim, a victim of what we now know is a UNC plot. When I went down to assist my constituents when they were having a flooding problem, and a number of UNC jerseys, and the Member for Pointe-a-Pierre, the Chief Whip, told us on record they have some soldiers on the Beetham, and the police know the soldiers too. The police knows their records of the soldiers.

Dr. Moonilal: Madam Speaker, 48(6).

Madam Speaker: Member for Laventille West, I would just ask you to retract that and restate that in another way. I think you are imputing improper motives.

Hon. F. Hinds: In particular what, Madam Speaker? Retract what, Madam Speaker? I am sorry.

Madam Speaker: In terms of you were talking about people with certain associations and jerseys and so on. Please.

Hon. F. Hinds: Madam Speaker, I stand—I am not—just now. I am never going to disrespect this House, never would contemplate it. But, Madam Speaker—

Madam Speaker: Please, I have ruled. Please proceed.

Hon. F. Hinds: I will proceed, but I was stating a fact.

Madam Speaker, I am a victim of criminal offences, and I am adopting the course of the law as a law-abiding citizen and Member of Parliament. We had a former Member of Parliament who was charged for murder in this House, associated with the other side. That is how they are alleged to have resolved their disputes. We use the law and the courthouse to seek justice when we are wronged. [*Desk thumping*] That is the example we the PNM set and we live by that.

In one case a man pleaded guilty and he was convicted in terms and sentenced by the court. The other one is ongoing and we will deal with that in that matter. So I reject any suggestion about I have matter in court. I “doh have” none to answer. Other people have matters to answer, not me.

Madam Speaker, the Member for Oropouche East told us that the Attorney General is on record as saying that there is no greater roadblock to the swifter and the more efficient administration of justice than the preliminary enquiry. It is the first time that I must publicly disagree with the hon. Attorney General—I disagree. The greatest roadblock to the administration of justice and all that is good for TrinidadandTobago is the United National Congress. [*Desk thumping*]

Mr. Al-Rawi: I stand corrected; obstacles.

Hon. F. Hinds: Thank you very much AG for your acceptance of the correction. You see it time and time and time again, including today, in this House. The Member for Oropouche East raised the question of conflict of the Attorney General. We are all lawyers in here. We are all Members of Parliament. Every

matter that is of public concern, public good, public administration, concerns every one of us. If we followed his logic, nobody in this Parliament would be able to debate anything. And as the AG quite rightly stood up in PNM fashion and said, “I have no pecuniary or other benefit to be gleaned from this measure, and I stand clean and clear without any suggestion of being conflicted.” I applaud the Attorney General for that.

5.15 p.m.

The Member for Oropouche East, again, tried to make a mockery of the fact that we have an amendment here. It is normal since we assumed, even before our independence when we had a legislative council, in terms of the way laws are made, when the Government brings a package of proposals before this House, it is to be debated and we take into account even what our friends on the other side would say, as we do all the time. So this question about amendments and amendments to amendment, that is normal. We sent a Bill last week to the Senate after it was passed in this House dealing with—what was it?

Hon. Member: Law enforcement.

Hon. F. Hinds: No. No. The cannabis authority and the decriminalization of small amounts of marijuana, and there was an amendment in the Senate that we did not expect, but when I say we did not expect, there is an amendment, so we have to deal with that here. So this question of amendment and amendment, it is their amendments we “fraid”, they amended this same preliminary enquiry law, and gave us clause—on section 34. “Is dem we fraid.” And we had to not amend it when they were finished with us, we had to come to Parliament a Saturday in urgency to repeal it. Remember that, Madam Speaker? So this Member for Oropouche East, I do not know why he does not choose silence sometimes.

He spoke about flooding and you must permit me, Madam Speaker, he made reference to flooding and his constituents, and he quoted from the *Newsday*. Permit me without holding it up in breach of your rules, given my utter and utmost respect for you and this House.

Hon. Member: And deference.

Hon. F. Hinds: And deference even. Madam Speaker, at page 11 on today's *Newsday*, a picture and a whole page article issued by and written by one Seeta Persad, and she is quoting Rampersad Seeraj who is the President of the Penal/Debe Business Chamber. Madam Speaker, I do not live in that area, I traverse it regularly, I have business in that part of the country and I take my business seriously.

Hon. Member: What? Pholourie?

Hon. F. Hinds: But, Madam Speaker, you and I do not live there, we do not know the ground circumstances, but we expect that Mr. Seeraj, being the President of the Business Chamber in that area, that he would, and hear what he had to say, just quickly, Madam Speaker, permit me in response to Oropouche East:

““There are businessmen who have diverted watercourses and converted natural watercourses into box drains.””

The Minister of Works and Transport tells us that they somehow, they have configured the place now with the success in business and business development that they have seen for the last 40 years in the Penal area, in the Debe area, the roads have now become the watercourses, unfortunately. So when the rains come, it is the road the water passing through and creating these problems. He goes on to tell us, he does not know if they are complying with the planning legislation, but more than that, he said:

“People continue to build without regard for the law.”

The Member of Parliament would not come here and report that, Oropouche East, none of them, but hear this, Madam Speaker. Mr. Seeraj says, I am quoting:

“The chamber, he said, is concerned about the lack of interest shown by the members of Parliament for the Naparima Oropouche East and West...and Siparia.”

Hon. Members: “Ooohhh.”

Hon. F. Hinds: That is Mr. Seeraj. [*Desk thumping*] And if that was not truthful enough, he:

“...claimed”—that—“councillors for those areas—“are”—inactive...”—and—

““At the local level, we see little done by the MPs and councillors...”—little done.

And he says two things as he concluded:

“You can’t prevent God’s work...”

—meaning heavy rains, 14 inches of rain in a matter of three weeks. He said:

““You can’t prevent God’s work but...”—when people—“...blocking waterways and”—there is—“neglect...”

—on behalf of the MPs who he just suspected, that is the result. I finished with Mr. Seeraj, I just thank him for his truthfulness and his candid commentary. And, Madam Speaker, when they come to the Parliament as the Member for Oropouche East did a moment ago in his contribution and tried to castigate and blame “de Government”, it is their neglectful representation according to Mr. Seeraj. [*Desk thumping*] Yeah.

Madam Speaker, let me return to the matter in front of us today and forget

the Member for Oropouche East. He is as irrelevant as you can get it, [*Crosstalk*] and if I mention his name again, [*Crosstalk*] Madam Speaker, I might be ruled irrelevant.

Madam Speaker: So, again, as I say, this is a place of banter, but some of the things we want to poke fun at are serious things. Okay? And, Member for Oropouche East, I am hearing you, those are serious things. Okay? All right. Continue.

Hon. F. Hinds: Thank you very much, Madam Speaker. Law is an instrument of social change and we amend it as we must, to cope with changing social circumstances. Law is not an exact science like mathematics; law is a social science, when we write law it is written in words, words are subject to interpretation, differing meanings, this is why you have courts that would adjudicate upon legislation ultimately, so this whole question as I said, Madam Speaker, of amending and all that, that is trite, and I did not expect it from a man with a PhD like the Member for Oropouche East, but with a man who is malicious and cantankerous you can expect that; I did not say he was. [*Laughter*] I did not.

Dr. Gopeesingh: 48(6).

Madam Speaker: Member for Laventille West, it is not what you said, it is what you did not say, so kindly withdraw that and stay focused.

Hon. F. Hinds: I withdraw that, Madam Speaker.

Madam Speaker: Thank you very much.

Hon. F. Hinds: Let me make it very clear then, having withdrawn that, some people if they are driven by malice and cantankerousness, then they are capable of those such things, Madam Speaker.

Madam Speaker, what is dangerous about this is that some of the people

who speak the loudest to us are themselves under investigation; some people. Some are lawyers and we have lawyers in this House who participate in debates in this House, who sit on joint select committees in this Parliament, who get access to information in great detail which the average citizen would not get, and as soon as they cannot get their way in here, they go in the courthouse and launch attacks on the matters concerning the Parliament, that is where the two-facedness of which I spoke comes in. We have seen that a thousand times, and that is the dishonourable conduct that those who formulated this democratic parliamentary Westminster style never anticipated, Madam Speaker. They did not think in 2019, you would have politicians from around the world who would be so ignoble, if I may use a word made famous by my Rasta brother, may his soul rest in peace, Robert Nesta Marley.

Madam Speaker, the AG has put it most succinctly time and time again, much to my admiration. I like a good speaking presentation or good presentation, I enjoy that. One of the reasons why I love hearing you, Madam Speaker, when you do speak. But, Madam Speaker, the AG has told us time and time again that there are three Ps that are important to achieve using law as an instrument of social change, supported by good governance, driven by principle that are necessary: plant, process and people. Let me give you a quick example.

We will be vacating as you announced today, Madam Speaker, these Chambers as the seats of the Parliament of Trinidad and Tobago since 2011. As we leave here, these rooms will be converted into 64 new courtrooms in terms of plant, and at the same time those civil courts that will occupy this space would vacate the Hall of Justice on Knox Street so all of the courtrooms there will be used for criminal matters. That is a tangible and substantial advance in terms of

improving plant and process.

When we talk about process, we talk about removing laws that are obstructionist, laws that get in the way of modern, efficient criminal justice administration, Madam Speaker. It is for that reason that we are here today to abolish the old preliminary enquiry, which from our learning, our experience based on the submission of Lord—what is his name? Not Diplock. Who was the—

Mr. Al-Rawi: Ossified former—

Hon. F. Hinds: Yes. It was Diplock. Yes. Lord Diplock back in 1960 talking about the preliminary enquiry procedure as it existed then in England that it was ossified. We live here on the Larceny Act of 1916, as I speak to you, the UK had that, we inherited it from them. They moved on since 1968 and 1978 with modern Theft Act of 1968 and '78. We are still on the Larceny Act of 2014, using cases as decided in the cases in the courts of England on the Theft Act as we prosecute matters on the Larceny Act. And when we return to Government, this Government will make a bold attempt at repealing that and replacing it—no, I cannot state, but I hope that we will get that, let me not say more on that matter.

New laws are necessary by way of process, follow-the-money law, we have done that; explain your wealth, we have had some cases over the last week where citizens of this country have had to explain their wealth, so the laws are beginning to bite. More and modern application of technologies, voice transcription, Madam Speaker. So now we move from the question of handwritten notes as it used to be, and the Computer Aided Transcription, the CAT system as it used to be, we are now in many courts around the country on voice transcription. So as the speaker speaks, the witness or the magistrate, judge or anyone else, it is translated into writing, Madam Speaker, process; those are the things.

CourtPay, and as we say CourtPay, why I described them as obstructionist and the AG accepted my intonation, there is a Member, a former Senator of the UNC, Gerald Ramdeen who has promised, if he has not already done it, to take that issue of the CourtPay to court. And that is where you allow persons to pay money electronically into and out of court for beneficiaries, for example, maintenance payments. Instead of the lady having to go by the court and line up and no money is there, she can do it and it goes to her bank account and what have you, Madam Speaker, so you see?

Cameras: China, they say 98 per cent “cameraed”, wherever you turn there are cameras, 98 per cent. They reduced their murders from 30,000 a year to 8,000 a year in a population of 1.4 billion people. That is what we are about to do now. The Minister of National Security fought to reduce the cost of it and all of that, and there we go; processes. And as for people, Masters—I just went in the Magistrates’ Court today in furtherance of my matter in which I am a victim, and I did not meet any Clerk of the Peace, that has changed, we meet Masters inside of there now, legally trained people conducting the administration of the affairs of the court.

Progress: We have done that, more judges, more puisne or first instance judges, more Appellate Court judges. I think it moved from 12 to 16 or 15, and the judges have moved from 36 to 64, Madam Speaker. And, of course, as icing to the cake, they failed to do, we appointed a Commissioner of Police and he is on the job.

The Member for St. Augustine in his contribution told us, sheepishly I suspected, that the UNC started this thing about preliminary enquiry abolition. Yeah, they started the Hochoy Highway extension to Point Fortin too, and like

seagulls made a lot, a lot of noise and left a sippy mess.

Hon. Member: “Seagullism”.

Hon. F. Hinds: In the spirit of “seagullism”. They started the Red House as well, but come January, we having finished it will be moving in there. [*Desk thumping*] And they should be banished from speaking when they get there for that sin, but they will want to come and talk louder in the Red House than anybody else; failures.

And we courageously have tackled corruption, white collar crime, head on, so we are not surprised that we are making enemies. We are not surprised that there are people who are against us, but we stand on principle and we trust that the majority of people in Trinidad and Tobago will join us on the platform of principle and reject the unprincipled among us. We are doing what is right including the demonetization of the \$100 bill. That was designed to make this place corruption-free and to root out the bad elements.

Madam Speaker, there are three examples I will share very quickly, and I know that they are before the court, but the Dana Seetahal matter is now four years old, I “ain’t” going to going into it, but what I can say, not about that matter but in general, it is in—The interest of justice is never served when you have these expansive and extensive delays in the court system. The principle is, judgment, sentence, ought to come as close as possible to the ill-conduct that the society described as “criminal”, because there is some ill-conduct that we do not call “criminal”, but the criminal laws, when someone breaches them, the justice could only be best served when the sentence is meted out as close in proximity to the offence; four years, the Piarco, 19 years, Piarco enquiry. It works disadvantageously to the accused because people after four years, after 19 years the

evidence is no longer fresh in people's minds, and human beings what we are, a lot of things get lost, a lot of things get mixed up, witnesses die, witnesses die as a result of being killed.

So when we take action to abolish the preliminary enquiry and quicken up the justice system with all of the safeguards that this Bill purports to do, and the due process, Madam Speaker, we do so for a good reason. There are a lot of side shows that are very, very dangerous to this society, you have to have a witness protection programme. Somebody might be a witness in the matter, their life is at risk, witnesses have lost lives, so this is a very solid step forward; very, very solid step. The Vindra Naipaul issue, that went on preliminary enquiry for two years. Of course, section 16C, I think it is, of the Indictable Offences (Preliminary Enquiry) Act, the parent Act, makes provision for paper committal where the sworn statements of witnesses can be put in and will be treated as evidence in chief. So all that will be left when the matter goes to the Assizes, the High Court, would be for cross-examination; that procedure still exists. And in fact, in section 23, a magistrate can commit without even reading these statements once the defence counsel does not object.

So, I heard my friend for St. Augustine and the one for Oropouche East telling us we should not proceed with these. One of the main arguments about this is that, you know, against this, abolishment of the preliminary enquiry is that, you know, they say you can go without a prima facie case being made out, but we have made provision for sufficiency hearings and the standard, the Attorney General amended it, because when it first came here, this measure came here, he just said "sufficiency", the law just said "sufficiency hearing" without identifying the standard, balance of probabilities, proof beyond reasonable doubt, so he has now

put that in. The Member for Oropouche East is scathing in his criticism about amendment to the amendment and that kind of folly and trying to be pejorative over it; we reject that.

There are very few cases lawyers prefer, I can tell you, I practised in the criminal court and I have observed, I was not like that, but lawyers prefer to have two bites of the cherry, they like to cross-examine at length in the Magistrates' Court in the preliminary enquiry. Some lawyers think that when you do that you unearth inconsistencies between the evidence given now and the evidence at the trial and those inconsistencies might work to the defence's advantage. Some might be motivated by money, I get to charge fees in the preliminary enquiry, and I get to charge fees at the trial, or some lawyer, the client pays twice.

And most cases are sent on indictment, because the court in a preliminary enquiry is not looking at credibility, the court is not looking at the truth, the court is merely looking to see whether an offence was committed, and whether the person before the court could reasonably be associated with the offence, and whether the ingredients of the offence, as lawyers call it, are present. Once those three conditions exist, it most likely will go.

There is one case that I learnt about only today, where on preliminary enquiry all the submissions we make on the Galbraith test, the twin test about whether the evidence is so manifestly unreliable, all of that comes to nothing in the reality. A case called Shippey, a UK case where the evidence given by that one witness in the case was so intra-conflicting, it was so manifestly unfair and unsafe and unsatisfactory, the court did not send it. But in most cases it is up the road it goes because the lawyers could do what they want, once the ingredients are there, once the accused or the defendant is identified with the offence, then it goes on

preliminary enquiry, so that argument falls.

In the Shippey case she was internally inconsistent, and stats showed that it is about .01 of the cases that do not go to the High Court on that basis, so I think that argument ought to fall.

I know of a case now, Madam Speaker, where a man was charged for having in his possession which he said he obtained from a store earlier, the day or some such thing, US \$300. That was dealt with in a preliminary enquiry, an indictment now is to be drafted for him to go before a High Court, US \$300; we could do without that, and therefore it is good.

The Member for St. Augustine, Madam Speaker, tells us that, and unashamedly you know, that the police, the magistrates and the Judiciary were the same people who advised the last Government. I made a note, you know, in respect of the state of emergency of 2011. Madam Speaker, nothing could be further from the truth. The Judiciary had nothing to do with that except the AG ranting and raving at the time about, “jail ain’t make to ripe fig”, and he spoke in prophet-like terms perhaps, but he said it.

No magistrate had anything to do with that, DPP had nothing to do with that. The DPP was faced with the embarrassment of having to leave his air-conditioned chambers, put on his robes and go to court to tell the court there was no evidence in these matters. In Trinidad and Tobago when they locked up 3,000 people, 245 people under the anti-gang law that had just been passed at that time in 2011, and 13 Muslims on the day before the coup, the day before the state of emergency expired, Deyalsingh, then Senator, Fitzgerald Hinds, we stood up and we challenged John Sandy, the then Minister of National Security. We said, “What a shame”. I made the submission too, “What a shame”. You got yourself

emergency powers, this thing ran for three months and not one person locked up under those emergency powers, it is an embarrassment. “Eh-heh? I think it was Deyalsingh caused it.” By later the night they went and picked up 13 Muslims using the emergency powers, 13 in some fake plot to assassinate the Prime Minister at the time, and they had to release every one of them, and the taxpayers of this country are spending money now on the 245 persons who were locked up under the anti-gang law and on the 13 people.

The UNC, the madness, and the Commissioner of Police Dwayne Gibbs at the time, he was in Brazil on a course, he did not even know that there would be a state of emergency, and the Member for St. Augustine who was in the Cabinet comes here today boldly, two-facedly, typical UNC—

Hon. Member: Wicked.

Hon. F. Hinds:—George Chambers said they are too wicked—and tell us to blame the police for that.

Dr. Gopeesingh: 44, Madam Speaker. He just spoke about “they” and then he said, “they are too wicked”. Could you retract?

Madam Speaker: Member for Laventille West, continue please.

Hon. F. Hinds: I thank you for your protection against the—

Madam Speaker: Member, just—

Hon. F. Hinds: Thank you very much, Madam Speaker.

Dr. Gopeesingh: Behave yourself.

Hon. F. Hinds: The Member for St. Augustine also told us, the Member for St. Augustine a lawyer, a mature citizen of Trinidad and Tobago stood up in this Chamber here today behind parliamentary privilege, a privilege that only 41 of us enjoy in the whole country, and told us here today that sedition is not a threat to the

State of Trinidad and Tobago.

Mr. Charles: “When last they charged somebody?”

Hon. F. Hinds: And the Member for Naparima who is the shadow Minister of National Security, is asking me, “When last they charge somebody”?

Madam Speaker: Member for Naparima, you wish to make an interruption under the relevant Standing Order? Right. Continue.

Hon. F. Hinds: Go at night in the cemetery and ask that?

Madam Speaker: Member, please.

Hon. F. Hinds: Play “Duppy”.

Mr. Young: That is “Duppy”.

Hon. F. Hinds: Madam Speaker, as I told you a moment ago, sedition is not a threat. They concocted an arrangement and arrested 13 citizens, Muslims in this country, 13 for some alleged plot to assassinate the Prime Minister, the Member was in the Cabinet at the time. He comes here today and tells us sedition is not a threat.

Let me come quickly to the question of warrants. My friend from San Fernando East I must say, he demonstrated a rather scholarly contribution today [*Desk thumping*] as he always does, really, Madam Speaker, but today was particularly wonderful. I sat, I ingested the contents of his contribution, and I must say to my friend, I thoroughly enjoyed and admired it. [*Desk thumping*] I have been around this place for many a year and I know a good contribution when I hear one, do not get it from the other side, but I know one.

Madam Speaker, he dealt with the question of warrants and I have some notes and a lot has been said about the warrants. The important point for me to reinforce is that in the whole process of the issuance of the warrant, whether it is

unlimited—

Madam Speaker: Member for Laventille West, your original time is now spent. You have 15 more minutes to wind up your contribution. You may proceed.

Hon. F. Hinds: Madam Speaker, the warrant, the provision in section 5, and I would not waste any time going into it, it has been read twice in this debate already.

Madam Speaker, the criminals in Trinidad and Tobago, the criminals in the world are particularly keen and smart, they are always trying to be one step ahead of law enforcement. You may identify the person, but you have to identify the places he frequents and is likely to leave the loot, whether it is \$100 bills, money laundered money in stashes somewhere or whether it is firearms or whether it is drugs or whether it is—poor souls, the victim of human trafficking in a house locked up with a tall wall somewhere. I saw the other day in America they found some women and some children in a place, they were there since they were children, 30 years later, in America; so they are very keen.

I have a case, I know of a case where guns are hidden in somebody's roof. A citizen in Arima reported to me that a gun was hidden in his backyard, an AR-15. When he was cleaning out he found this bag with this thing, you would not find it in the criminal's house, you would not find it in his car. In fact, talking about cars, the other day they found nine AR-15s in Belmont in a motor car. When the police intercepted it, and as a result of that interception, they were able to go and find a handgun in a house, so the police work on intelligence. What we do here as parliamentarians, of course, with an eye on the Constitution, is to find a balance between the police and state power and the rights and protection of the citizens. We have to find a balance [*Desk thumping*] but I find my friends on the

other side always sound as though they want to support the criminals, they sound so, and tell us as though we have the power to carry out the search warrant.

Dr. Gopeesingh: 48(6), Madam Speaker. He said, “those on this side always want to support the criminals”.

Hon. F. Hinds: I did not say that. [*Crosstalk*]

Madam Speaker: Overruled. Please continue.

Hon. F. Hinds: Thank you very much. Thank you very much, Madam Speaker. And I heard the Member for Oropouche East saying, and “yuh want to do this and yuh want to search people place”, lending the impression to his unthinking and not so careful and unwary constituents, that it is the PNM Government wants this power to go and search people's houses. No. It is the police, and as the Member for San Fernando East made clear, it is subject to due process, it is a judicial officer who will decide on the basis of information provided to him or her that he or she will grant that warrant whether it is unlimited or limited or for how long and for how many places, based on the information that the police provides to the judicial officer, and based on the satisfaction on the part of that judicial officer before he or she issues such a warrant; due process.

So this idea that “yuh want and yuh want” like if it is Dr. Rowley or Stuart Young “going by people place”, that is not it. They hide their weapons, they have boats parked up offshore.

Mr. Young: Correct.

Hon. F. Hinds: Drugs and guns on the boat, a little pirogue making trips. So if you are going to deal with the pirogue and the pirogue owner's home, you want to deal with the vessel too. And if he has an aunt in Penal you want to go by “she” too, and he has a girlfriend in San Juan, you want to go by “she” house too because

they are very smart, and they pose a danger to us, hence the reason why [*Desk thumping*] you will find this provision in England and we want it in Trinidad too. So if we have to make some amendment just to tilt the balance a little bit, “nuttin wrong with dat”, an amendment to the amendment to the amendment. Okay, no problem, it is they who suggest it; fine. But we are coming down on the side of law enforcement with an eye on the Constitution.

5.45 p.m.

And, Madam Speaker, talking about the Constitution, and I know time is running hard on us, the Attorney General has time and time, and time, and time again, to the point where as lawyers say, it has become trite, in satisfaction of section 13 of the Constitution, the principle is now, not every amendment to the Constitution that touches and concerns or affects the fundamental rights as enshrined in sections 4 and 5 of that document, not everyone requires a specified majority. That is the principle, as a fact. So said Baroness Hale in the *Suratt* case.

Hon. Member: The majority in *Barry Francis*.

Hon. F. Hinds: And the majority of the Privy Council in the *Barry Francis*, and in the *De Freitas* case too, and many others. I want to drill that down for my colleagues on the other side, constitutional majority. I tell you, they are the worst objectors and obstructionists that this country has ever seen. They have done nothing good for Trinidad and Tobago, but bring us shame and disgrace and obstruction. And Baroness Hale made it clear in paragraph 58, the Attorney General knows it like the palm and “de back of he hand”; the amount of times I have heard that bright beautiful young man say it and/or learn it almost by heart.

Hon. Member: Almost.

Hon. F. Hinds: Almost. It has to be first of all justified in a society that has

respect for the rights of the individual and in a civilized democracy such as ours. My words, but that is essentially what it says. It has to be rational to the problem that you are trying to fix. You have to show reasonable contact with the problem, and what you want to do about it. And thirdly, it has to be proportionate. In other words, when you identify the problem, you do not use a sledge hammer to crack a nut. If it is a nut, you get a little hammer. If it is nutty you get the PNM. [Laughter] [Desk thumping] Instead of the UNC. So once you satisfy those tests and you put in the due process provisions, as we have done time and time again, then the need for a specified majority is no longer there. And what is worse, Madam Speaker, the Member for Siparia, self-helping as she has been, [Laughter] being senior counsel, if I was speaking to the ordinary man and not to someone as learned as you, I might have said she put her hands in the cookie jar, Madam Speaker. [Laughter]

Madam Speaker: That analogy, please. So, withdraw that analogy.

Hon. F. Hinds: Okay, Madam Speaker, I withdraw that. But, Madam Speaker, I had to remind my colleagues some time ago, that the process for the grant of Silk involves the Prime Minister of the country. The Prime Minister has the last say, and at the time the Member for Siparia was granted Silk, she was the Prime Minister, and that is what I meant, but I would not say it like that again, Madam Speaker. I just remember the story of Bear Anansi and the bag of honey, [Laughter] “and when he see dem licking de honey all de time, the monkey jumped down off the tree and he put he hand in the honey thing and thing, so they put some Jack Spaniard next time”. “They put jack spania.” [Laughter] You remember that, Madam Speaker? “You ketch dem. Dey go put dey hand again.”

Madam Speaker, so as I said, less facetiously, once the due process is

observed, according to Baroness Hale and the majority in De Freitas, then we have met the standard, Madam Speaker. Madam Speaker, I have a suspicion that my time has run, but the measures that are before us now were submitted to the Trinidad and Tobago Police Service, which has within its bosom a number of highly and acutely qualified young men and women. A lot of people just watch and think it is police, plenty of them you see in uniform have degree of all kinds, and integrity of all measure. And the lawyers in the TTPS reviewed this legislation; they had no issue with it. The Judiciary commented upon it, had no issue, and if you want to find lawyers, you have to go in the Judiciary. That is where you would find lawyers. They adjudicate and do other things. And, Madam Speaker, the DPP independently established under section 90 of the Constitution, he and his team of lawyers at his office would have reviewed this and found nothing wrong with it. The Law Association and the Criminal Bar, they were submitted with copies of this Bill, and on divers occasions asked to produce responses, and rather slothfully they did not, and we take it that their silence is consent.

Mr. Mitchell: Acquiescence.

Hon. F. Hinds: Acquiescence, to use a more elegant word, from my friend for San Fernando. We take it as acquiescence. Thank you very much, hon. Member. And therefore, either expressly or in acquiescence, these measures satisfy those entities, satisfy the LRC, the Legislative Review Committee of the country, it satisfied the Cabinet, it satisfied the Government, and here we are. Madam Speaker, so as we commend these measures, I mean, I would—Madam Speaker, how much more time would you allot me?

Madam Speaker: You have about four minutes left.

Hon. F. Hinds: Four minutes left. Madam Speaker, I was about to analyse the elements of clauses 13, 14 and 16, but I take it that time has run. It is all in the legislation in front of us. I was about to go through elements of those. I think I need not detain us anymore. Madam Speaker, the people of Laventille West, noble, dignified as most are, they support these measures, and through the lips and the representation of their Member of Parliament, they want me to communicate to you, Madam Speaker, and this House, that we support these measures wholeheartedly. We consider them to be justified. We consider them to be rational. We consider them to be proportionate, and on the anecdotal evidence, some of which I shared, about the ingenious and creative elements of the criminal fraternity, and the need for us to play catch-up, especially given modern technologies, we respond in this way, and we do not do it for the sake of the PNM, we do it for the good and the welfare of the people of Trinidad and Tobago. Madam Speaker, I thank you. [*Desk thumping*]

Madam Speaker: Member for Naparima.

Mr. Rodney Charles (*Naparima*): Madam Speaker, I listened to the Member for Laventille West, and every time I listen to him I get a sense of why we are in the problem and predicament that we have in Trinidad and Tobago at this time. You get a lot of noise, sound and fury, fluff, but nothing of substance. [*Desk thumping*] I wish to remind him that the greatest roadblock to crime—he authored that, the Member for Laventille West authored that on this side. But I wish to remind him, that the greatest roadblock to crime is the incompetence, the ineptitude, and bad law perpetrated by the PNM on the hapless people of Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, in south we have a little strap we call a bull pistle,

[*Laughter*] and this has known to put people in a “tisc”. I know of a fella who got a bull pistle and he ran up a “banga” tree and he sat down for two hours, and “they tell him come down, and he say, why, for picka to juk meh”? You know, understand. Now, the behaviour on that side is indicative—

Mr. Hinds: What?

Mr. R. Charles: Is indicative, Madam Speaker.

Mr. Hinds: Madam Speaker, are we not entitled to a proper joke if we are having one? [*Laughter*]

Dr. Moonilal: What is the Standing Order?

Mr. R. Charles: Madam Speaker, the people of Trinidad and Tobago spoke on December the 2nd; 40,000 more citizens of Trinidad and Tobago voted for us, [*Desk thumping*] not voted for those on the other side. So, Madam Speaker, we will take whatever they say, because we know it is only a matter of time [*Desk thumping*] when we shall be there and they shall be over here. The only thing I would say is that we would treat them with humanity, and empathy, and listen to their views and perspectives, not the pejorative attitude that they have towards us, that nothing matters. Madam Speaker, I heard the Member for Laventille West speaking about the great things they are doing in law to make Trinidad and Tobago a bright and prosperous place. What he would never tell you is the output of those laws. The output equals nothing. The murder rate, he would never tell us about the murder rate, as we head, as we speak for either the first, second or third highest murder rate in the history of Trinidad and Tobago. That is the consequence of what we have here today.

So, Madam Speaker, we know why legislation is brought here, legislation upon legislation, to give the impression as if things are happening, and that they

are on top of crime. But I was reading in today's papers a comment by, Ms. Suzanne Mills it is? Yes. Today's papers, page 30, and she said, and she anticipated what I was going to say here today, and I quote her:

“I fear that we shall witness faulty and dangerous legislation laid in Parliament in the months before the 2020 election.”

And she went on to say hasty moves to introduce such things like the \$100 bill, all with the end to give the impression that things are being done. So here we are, Madam Speaker, for the third time to discuss the third amendment to this Bill. The second amendment was in June this year, and earlier we had the first one in February in this year, and we ask the question, why are these amendments that we are having here today, and we are deliberating upon, why were these things not considered then in June? Madam Speaker, it is the same thing with the Bail (Amdt.) Bill. I asked them, why do we need to come twice? If you have given comprehensive thought and you have spoken to all the interest groups, you would anticipate all the scenarios. Madam Speaker, to come to discuss the Bail (Amdt.) Bill only to include—what do they call it? Submachine guns, AR-50s and AK-47s, things that have been around Trinidad for the past 15, 20 years, and it was not anticipated in the Bill.

So here we are today, Madam Speaker, looking at amendments to the Bill. Madam Speaker, these things could not have been done earlier to save our time? We had to come today to amend section 3, to add in:

“‘arrest warrant’ means a warrant issued under section 6 or 8...”—“‘or any other written law’;”

Madam Speaker, it takes any genius to anticipate that some months ago, that some laws may come about that you may not have thought about so you give yourself a

catch-all phrase to escape that situation to save us from coming here. And I am dealing here with the preliminary definitions:

“‘documentary exhibit’ includes a statement, extract, photograph, computer printout...”—and they add in here—“‘, digital file in any format contained in any device’;”—“...or other document.”

Madam Speaker, digital files have been around in this world since for the past 20 years. When I was in university many moons ago, they were talking about digitalizing information in libraries, they were concerned, and we are here today to put:

“‘Minister’ means the Minister with responsibility for...criminal justice...”

“‘search warrant’...”—and you add in—“‘or any other law’;”

It goes on, but, Madam Speaker, this is the cake, clause 5:

“A Master who is satisfied by proof on oath that there is reasonable ground for”—“suspecting”—“that there is in any building, ship...”—and they cross off “ship” and put—“aircraft”—“vessel, vehicle, box, receptacle...”—“, computer, electronic device”—“or place—”

And it goes on.

Madam Speaker, if they would only read a little bit. We come here to move “ship” and put “aircraft”, Madam Speaker? There have been split fires around before I was born. “I born 1949”, they had split fires that helped the British air force to conquer—[*Interruption*] split fires—Germany. [*Interruption*] Whatever. Madam Speaker, I read from Singapore’s Criminal Procedure Code. You see why they major in minors? They major in pronunciation, I major in the law. I major in research. [*Desk thumping*] If they would only read! Singapore’s Criminal Procedure Code, Chap. 68 of 2010. How long ago was that? Nine years ago, a

decade. It was revised on the 31st of August, 2012. Hear how they defined “place”. Hear how they are superior to us, right, or superior to them, not us:

“‘Place’ includes—

- (a) any building or structure, whether permanent or temporary;
- (b) any land, whether or not built on;
- (c) any place, whether or not enclosed, and whether or not situated underground or underwater;”

I will get to that. “Any vessel”—you see, Madam Speaker, they are not brighter than us. They have “aircraft”, 2010, they have “aircraft” in place. We meet here today, where are we now, 2019? 2019, to change “ship” to put “aircraft”. But I will get to that. They say:

- “(d) any vessel, aircraft, train, or vehicle (whether mechanically propelled or otherwise) or any other means of transport; and”

And they say:

- “(e) any part of any place referred to in paragraphs (a) to (d);”

So, Madam Speaker, we came here today to change “ship” to put “aircraft”.

From Singapore they talk about:

“...vehicle (whether mechanically propelled or otherwise)...”

Madam Speaker, we will be here next week, next month, to put drones, because they are now using that technology. They have captured it here. The Singaporeans have captured it here by saying:

“...vehicle (whether mechanically propelled or otherwise)...”

We do not have that. It goes on to say:

“...or...other means of transport;”

Madam Speaker, the technology with the Colombians is that they are using

semisubmersible submarines to evade the radar. When that happens and cocaine lands in Trinidad in a semisubmersible vessel, we will now have to come here, very quickly, to add that in. Do your research, come up with what is best practice and incorporate it and save us.

Madam Speaker, I am too old, I am too old to be called to come here—
 Madam Speaker, I will deal with it later, it is section 5(c). It says:

“...may at any time issue a warrant under his hand authorizing any constable”—“or any person accompanying him”—“to search such building...”—and it cut off “ship” and they put “aircraft”.

Madam Speaker, again, when you go to Singapore, you know the Singapore Criminal Procedure Code, and I am not a lawyer, but I had three days to research this and I learnt about PACE, and I would show them PACE. What is PACE, Police and Criminal Evidence Act—if I had a year, I would come up with legislation superior to this. You would come one day and get it done.

Madam Speaker, look what the Singaporeans say. We say, “or any other person accompanying”—“or any person accompanying him to search”. The Singaporeans say:

“The court may in appropriate circumstances issue a search warrant to one
 or

more named...”—you understand the difference?

You understand First World and Third World?

“...named persons who are not police officers, and all or any of those
 persons

may execute it.”

I will go on a lil more later on. I just want to say—and that is included here in the

PACE they call it, lawyers call it. I am not a lawyer, and they said here, it says that the persons who accompany the police officer must be named, specified.

So we come here, Madam Speaker, to—yes, section 5(1A)—sorry, (2A):

“Where the occupier of any place which is to be searched is present at the time when a constable seeks to execute a search warrant, the constable shall—

- (a) identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable;”

Madam Speaker, I always learnt, as a junior counsel, who practised law in the University of LLL, look, listen and learn, “shall” meant you must. [*Laughter*] But I subsequently learnt that “shall” could mean, depending on the context, it could mean “may” or it means “must”, and they say best practice is to specify “must” when you mean “must”. So, with my junior counsel advice to the Attorney General [*Laughter*] is to be particularly specific, deal with a certain measure of specificity, and let us know [*Desk thumping*] precisely what he means. And then it says:

“...if not in uniform, shall produce to him documentary evidence that he is a constable;”

Madam Speaker, at this level, heading for a First World society, what is “documentary evidence”? “Ah piece ah paper in yuh pocket?” Madam Speaker, and the reality is, I have been subject to a search warrant when I was in PASU office, and I was campaign manager in the year 1998/1999. So the time the police came, and when you ask him—and we are talking about contextualizing the law—“where de warrant, he pass you straight”. And I want to make the point, and I think it was made by my colleague, that warrants are used in Trinidad in terms of

practice as an intimidatory tool. [*Desk thumping*] They did it to a chief justice, Sat Sharma, cars lined up, seven cars, lights, in the night, and I will speak to that, because in Singapore they say it must be done at a time that is appropriate, and not done in a time to inconvenience the people to whom the warrant is being issued. The neighbours turning on their lights, looking at you, want to know what happened, and if they could do it to a chief justice, who is any member of the Opposition, or any average citizen in Trinidad and Tobago? They pretend they do not know the realities of Trinidad and Tobago. I saw Mr. Panday— [*Interruption*]— I need your protection.

Mr. Lee: And you are in the wrong seat.

Madam Speaker: Is it an interjection you want to make, Member for Laventille West?

Mr. Hinds: Yes, Ma'am.

Madam Speaker: Okay, make it properly, please.

Mr. R. Charles: I saw, Madam Speaker, former Prime Minister of this country, Mr. Basdeo Panday, no taller than five-foot-three, and some “straptin” police—

Mrs. Robinson-Regis: “Straptid?”

Mr. R. Charles: Yes, “I using de dialect, you doh understand, you understand cocoyea broom.”

Mrs. Robinson-Regis: “Straptid?”

Madam Speaker: Members. Members, please. Member for Naparima, do not be— [*Interruption*] No, do not be distracted, you direct your—

Mr. R. Charles: Yes, Madam Speaker, a 70-year-old Prime Minister, and they had these big six-foot-five police, and I say, that is overkill. But when they finish, and I will say I have friends who are attorneys and they told me that—they know a

little bit more law than the average citizen, and they told me that that is the most intimidating experience one could ever have in one's life. In front of your children you are humiliated, your neighbours parting curtains to see what happened, you cannot walk with dignity. And that is why I am saying, Madam Speaker—and I am not talking about the criminals. If I am a criminal and I commit a crime, let me get the full brunt of the law, but if I am innocent, and I will speak a lil bit about all those things.

But most of my concern is the sloppiness of this Bill that is before us, and the amendments. My staff told me, and they wrote the notes here, they said no doubt you would have to come back in three weeks' time, or a month's time to do the fourth instalment of our amendments. Madam Speaker, little did I know that amendments are going to be circulated here today, so they have gone ahead of my staff in terms of the number of times that we have here. This laziness, this is sloppiness, this is—Madam Speaker, if this was in Naparima College, we would have had a teacher, Dr. Allan Mc Kenzie, and Dr. Allan Mc Kenzie would put half of those opposite in detention, and they would have to write 6,000 times, “I shall bring to Parliament well-thought-out law that can withstand the test of time”. [*Desk thumping*] Do that a thousand times and they might be a little more reticent to bring sloppy legislation before us.

Madam Speaker, and we ask the question, you bring us here before Christmas to deal with something that could have been anticipated before, and we ask the question, we have no problem coming here to reduce occupancy rates in Remand Yard. They will promise, Madam Speaker; it will not happen. I am telling you for the remainder of their term in office, Remand Yard will have more or less the same population that it has today. Will it improve the DPP's office?

Under-staffed by 50 per cent, and they come here, and the Member for Laventille West, as if he is living in la-la land, abracadabra, we are doing this, we are doing that, we have employed magistrates, Masters, whatever; all of us know, all of us know today as we speak, that the system is not working as it should. Madam Speaker, it was Sen. Chote who brought a sense of realism to the debate, and she said, and I will just give an example, she said it, this is *Hansard* 4th of June, 2019, page 91. She said:

“...but we are hoping that when we legislate, it has an impact on the wider community and unfortunately, we are not yet seeing that.”

She is a senior counsel is she not? I am a junior counsel, so I have to take her word. She is my senior. [*Laughter*] She said:

“I have used this example before and I will use it again: Rio Claro Magistrates’ Court.

The Rio Claro magistrate now has from 9.00 to 10.45 to do her list”—the magistrate now has from 9.00, an hour and forty five minutes to do her list—“because she has to clear out by 11.00 for Princes Town First Court magistrate to sit. A prisoner on a murder charge who is brought by 10.30 has”—only—

“10 to 15 minutes for his case to be heard on a given day before he is sent back to prison.”

And somebody is asking the question about taking a rocket engine and putting it in a donkey cart. This is what we are talking about, a system that cannot function, and we are passing all these laws. All these laws, Madam Speaker, all these laws that would not make a difference.

Madam Speaker, “rush legislation”. Most of us are not lawyers. We got this

on Wednesday, today is Monday. You give us Wednesday, Thursday, Friday, Saturday, Sunday; four days for us to make an informed commentary on the legislation. I had to read about Singapore, Australia, England, Jamaica, read PACE, and I will get to that later, and we only have four days. Four days. What is this? What is this haste? What is this rush? Why can we not wait? Why can we not deliberate? Why can we not get scenarios? Why can we not get a wider input from the wider society? Nobody, nobody who has suffered in this country under a judicial system that is unfair to the poor and the weak in our society, none of them are being consulted; not one. I know that. But yet we pass law in an ivory tower, and those most affected suffer. It is the same thing with the \$100 bill. I am 70 years old—

Mrs. Robinson-Regis: Only?

Mr. R. Charles: Excuse me.

Madam Speaker: Let us deal with this. [*Interruption*] No, no, no, let us deal with this. We are not dealing with the \$100 bill. Okay? Let us deal with what is before us.

Mr. R. Charles: I am dealing with rushed legislation. Rushed legislation.

Madam Speaker, I want to read some cases. [*Crosstalk*] *Maharaj v National Energy Corporation of Trinidad and Tobago*, judgment date, January 30, 2019; *Attorney General of Trinidad and Tobago v Maharaj*, judgment date, 11 February, 2019; *Singh v Public Service Commission*, judgment date, 13 May, 2019; *Maharaj v Petroleum Company of Trinidad and Tobago*, judgment date, 20 May, 2019; *The Port Authority of Trinidad and Tobago v Daban*, judgment date, May 20, 2019. This one is interesting, *Seukeran Singh v Commissioner of Police*, judgment date, June 10, 2019, and *Attorney General of Trinidad and Tobago v Ayers Caesar*—I

hope I pronounced her name correctly, December 09, 2019. You know what my research stated? We lost all those cases in the Privy Council, Madam Speaker.

And I am saying, Madam Speaker, that we lost all those because the level of deliberation, this passion, research, is not there. So that I see it in this legislation, and the Privy Council—I could go a little further, you know, I could go a little further. I will ask a question in Parliament here, how much money have we lost? And Madam—

6.15 p.m.

Madam Speaker: Just one minute. Remember what we are debating here, okay? So let us tie all that you are talking about to this, please.

Mr. R. Charles: We are debating a law that is brought to us—

Madam Speaker: And I just want to ask, you are okay?

Mr. R. Charles: Yes.

Madam Speaker: All right, okay fine.

Mr. R. Charles: I am okay. Now I know that— and I seek your indulgence, that the Attorney General is going to say that he is enjoined in all these legislations. Madam Speaker, but I go to their website and I quote:

“The Ministry of the Attorney General is the arm of the Government of Trinidad and Tobago responsible for providing legal services to the Government and his various agencies. The Ministry’s obligation are primarily derived from the constitutional directives given to the Attorney General...

And the Ministry of The Attorney General provides the following services:

- Advising Cabinet”—as he did with this law, he presented it to Cabinet and he is presenting it here today. So he is— “Advising

Cabinet, Ministries and State agencies on all”—not some, all, as Espinet said, all, all, all—“local and international legal matters.”

Madam Speaker, I would not read it, but I have in the last month we lost about, in the High Court about six cases, you know, and something—and I wish to warn, there is something about measured deliberation. There is something about trying to impress by numbers, where the emphasis is on quantity of laws and not quality of the laws that we pass in this Parliament. I want to pass good law, and my leader has said, “We will always support good law”. [*Desk thumping*]

So Madam Speaker, junior counsel Rodney Charles, in my research—

Madam Speaker: Let me just ask something. There is a difference between bush lawyer and junior counsel. So I want you to be careful which one you are describing yourself as.

Mr. Charles: Bush lawyer, Madam Speaker, bush lawyer, as a qualified bush lawyer, but someone who does deliberate research. I went to the Police and Criminal Evidence Act, 1984, which I am told every first year law student knows or must be apprised of. And I want to read some of the safeguards that I hope will be included in the submissions that we will get later, and the question I ask is, why if I could come up with this in four days, the Attorney General could not do this deliberate research over the four years that he has been in office?

Madam Speaker, in the law it says:

“Search warrants—safeguards.”

In fact, it is easier to read than our laws. Our laws, you have to run down the side and try to figure out. In Singaporean law and British law, it is specified. So let me read some of the safeguards that they have when it deals with warrants.

“15 (1) This section and section 16 below have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act”—and it goes on.

“(2A) The matters which must be specified in the warrant”—specified in the warrant—“pursuant to subsection (2)(b) above are—

(a) if the application relates to one or more sets of premises specified in the application, each set of premises which it is desired to enter and search”—must be mentioned.

You understand why bush lawyer Rodney Charles have difficulty supporting what I consider bad law. Madam Speaker:

“(b) if the application relates to any premises occupied or controlled by a person specified in the application—

(i) as many sets of premises which it is desired to enter and search as it is reasonably practicable to specify;”

So there is an onus on the prosecution, the police officer, reasonably itemized all the premises. Not in our law.

“(iii) why it is”—he has to state—“why it is necessary to search more premises than those specified under sub-paragraph (i)...”

So he has to give a reason why I want to go in A, B, C, D and E. Four—safeguards, Madam Speaker, safeguards. A country that is concerned with the rights and privileges of the citizenry of the country. But when we are told that we do not have any rights to privacy, they do not want to give us bail, et cetera. Hear

four, Madam Speaker:

“(iv) why it is not reasonably practicable to specify all the premises which it is desired to enter and search.”

Madam Speaker, point (3):

“An application for such a warrant shall be made ex parte and supported by...information in writing.

(4) The constable shall answer on oath”—hear this—“The constable shall answer on oath any question that the justice of peace or judge hearing the application asks him”—on oath.

“(5) A warrant”—six, sorry, five—“A warrant shall authorise an entry on one occasion only [unless it specifies that it authorises multiple entries]

(5A) If it specifies that it authorizes multiple entries, it must also specify whether the number of entries authorised is unlimited, or limited to a specified maximum.”

And this is a safeguard which I am looking forward to, Rodney Charles, bush lawyer, is looking forward to in the submissions, the amendments on the amendments on the amendments that will come shortly to us.

“(b) shall identify, so far as is practicable, the articles or persons to be sought.”

Madam Speaker, that means they cannot go on a fishing expedition. They think I might be involved in X, and they get something on B, and they go on a fishing to find something. Hear serious countries, Madam Speaker, and when you read this, I was reading this as a layman. And I was saying, but why could the

Attorney General—clearly he took— he did research on this piece of legislation, because when you look at the wording there are many similarities between that, but he left out the safeguards. And I have to ask myself, why? Why, Madam Speaker, why?

Madam Speaker, “Execution of warrants”.

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

Mr. Charles: Thank you very much. Madam Speaker:

“Execution of warrants...

(3B) No premises may be entered or searched for the second or...subsequent time under a warrant which authorises multiple entries unless a police officer of at least the rank of inspector...”

You see why I have problems, Madam Speaker, I have serious— and they will come here after I leave and they will pick a minor point and say “I say” and create a straw argument and run off on that. And when I asked my staff to research it and I have things, you know, Madam Speaker, I have things that I have put in to clear the record where they have deliberately, deliberately misinterpreted what I said, go on to attack the misinterpretation and since they speak last, I have no hope, Madam Speaker.

Madam Speaker:

“(8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.”

Again, that is another instance where you cannot go on a fishing expedition. I am looking, there are many more, many, many, more—

Hon. Member: Pass it.

Mr. R. Charles: But they do not read if I pass this to them, they will just flick it away. Madam Speaker, no wonder the Privy Council—you know, I would not read this, I would not read this. This is where the Privy Council threw in the rubbish pan somethings that we sent up on the Ramlogan saying, this is irrelevant to the case, “badam” they throw it in the rubbish. But I would not read that. It gives me no pleasure, Madam Speaker, to disparage anyone in this office. I just have some questions.

You see this Order, right—an order basically extends the list of offences in section 6 that cannot be discharge on the ground of delay where the accused makes an application to the judge under section 27(2) of the Act. The new Schedule list six offences. No problem with most of them you know, but the sting is in the tail. You cannot come to Parliament, threaten us, as they are wont to do and do not—*[Crosstalk]* wont to do, and do not expect us to watch these things with “cokey eye”. Offences—so, man, you could be looked up for more than a year, right, and I am particularly concerned about offences involving misbehaviour in public office.

Madam Speaker, I know of serious politicians who were set up in this country. We could talk about Sadiq Baksh, we could talk about a plant like substance in a yard. Madam Speaker, you know what I do, I check my yard any time I see a strange plant, I pick it up and pelt it outside, because “ah frighten, ah frighten”. You see, I have no problem with a law that is dispassionate, that is objective, that it deals with everybody and no one is above the law. But when I get the sense that the law can be utilized for other purposes I get worried, offences involving the misbehaviour in public. No problem. If I misbehave, according to the law, and the State decides that they are going to delay, so what is my position if

they decide to delay? I will be in prison for whatever years.

And, Madam Speaker, let me tell you something, let me tell you something. I have learnt, I have learnt that the thing is not for you to win the case or lose the case, you know. The thing is for you to spend 10 years of your life—I have 70, how much 80—well, I will be dead, I will get away before they do their mischief. Madam Speaker, the thing is for you to live for eight to 10 years with a cloud hanging over your head. There is another thing, it is ploy, I am not saying they do it, to pauperize you, because when they do it, they are spending the State money. They could bring a Queen's Counsel, I have to spend—

Madam Speaker: So who is the “they”?

Mr. R. Charles: The “they” is the prosecutor.

Madam Speaker: No, one minute, one minute.

Mr. R. Charles: Prosecutor.

Madam Speaker: One minute. Member, you just—I guess maybe you anticipated somebody may have stood up on imputing improper motive and said that the “they” was not the other side.

Mr. R. Charles: Okay, I withdraw “they” and I say it is possible, Madam Speaker, for someone, somewhere could lay a charge on you and I, now facing Queen's Counsel, whatever his name is in London, and I have to get pounds—and you know how difficult it is since this Government has come into power, just to get even your own money, you own money, TT dollars, far less to get pounds and I have to pay somebody in England to fight to clear my name. Madam Speaker, that is pauperization. There should be a law that that person, somewhere should spend his own money against my own money and let us go court.

So, Madam Speaker, I have concerns this is bad, bad, law, bad law. If I go

to Singapore, hear what they say and I am speaking from the Singapore again, Criminal Procedure Code, (Chapter 68) of 2010 Revised (31st August 2012). It says:

“Execution of search warrant

29.—(2) Entry and search under a search warrant must be conducted during such period of time as may be specified in the warrant.”

You cannot come ten o'clock in the night, a Friday evening—

Hon. Member: Two o'clock in the morning.

Mr. R. Charles: Two o'clock in the morning and those sorts of things. Madam Speaker, it must be—and Singapore is a country that is not easy when it comes to perceived levels of oppression. In fact, the Attorney General misadvised the House when he said that under the Bail (Amdt.) Bill, if you are caught with a gun, you will be hanged. That is palpably not true.

Madam Speaker: We dealt with the Bail (Amdt.) Bill just a few weeks ago and therefore, let us continue. All right, please.

Mr. R. Charles: Madam Speaker, section 29(3):

“(ii) “if he is not”—the person who is conducting the search—“if he is not a police officer”—he should—“show the occupier his original identity card or travel document as proof of his identity;”

Madam Speaker, those are serious countries that one gets the impression they are concerned about the citizenry and the preservation of the rights of those who are innocent not those who are guilty. It says, again, they have situations where a police officer above the rank of inspector could take certain actions. For example:

“35—(2) If the property liable to be seized under subsection (1) is held or

suspected to be held in an account or a safe deposit box in a financial institution, a police officer of or above the rank of inspector may”—write and—

“(a) direct the financial institution to deliver the property to any police officer”—or any police station, et cetera.

Madam Speaker, I think this operates in Trinidad, I am not sure, but they saw it fit to put that in the law. If they take your money:

“35—(5)(a) any interest or other earnings on such account, or any other payments, may be credited into such account after the”—due—“date on which the written order was made...”

So they think— Madam Speaker, when you read these laws, they think about every eventuality, every possibility, every instance where they could protect the right of the citizen. I get the impression we have “hurry down” law in Trinidad and Tobago and it is “we tuh catch.”

Madam Speaker, I wanted to—I need—you see, people speak, anyhow, they speak after me and they say things. I need to clear the record, I must clear the record on something that was—[*Crosstalk*] no, no, no, not UN Security Council 222. In my first speech, Madam Speaker—[*Crosstalk*] I know, I know—

Madam Speaker: I am not going to allow that and if you familiarize yourself with your Standing Orders, I am sure in every debate you may find something that may assist you with what you may have a concern with. Please continue.

Mr. R. Charles: Madam Speaker, before I close, the Member for Diego Martin North/East, when this Bill was first brought to Parliament in November 18, 2011—

Mr. Imbert: Which Bill?

Mr. R. Charles: “Yuh wa me read de Bill fuh yuh boy”.

Administration of Justice (Indictable Proceedings)
(Amdt.) (No.3) Bill, 2019 (cont'd)
Mr. R. Charles (cont'd)

2019.12.16

Hon. Member: The parent Act.

Mr. R. Charles: The parent Act, Madam Speaker. When the parent Act was brought, right, Madam Speaker, when they were in Opposition the Member for Diego Martin North/East, the hon. Colm Imbert said on November 18, 2011, page 324, while debating the Administration of Justice (Indictable Proceedings) Bill, 2011. Hear what my learned friend said. Quote:

“Defence lawyers are going to “make mass” if you attempt to implement the system without putting the rules in place, without having the necessary number of judges, without having the necessary facilities, without having the support staff, the judicial service officers and all of the apparatus that goes with a judge.”

You know, I could give way, are you still on that view, the hon. Member?

Mr. Imbert: The AG did everything already.

Mr. R. Charles: He did everything already. So I take it you are still of that view because—well, I will point out to you Sir, that there are—yes, the Annual Report of the Judiciary 2017—2018. The hon. Member for Diego Martin North/East says that the Attorney General has done everything, they appointed all the Magistrates, all the Masters, all the judges, we have courts all over the place functioning, so that as you go in, come out, Madam Speaker. But according to the Annual Report of the Judiciary 2017—2018 statistics and Magistrates’ Court and Case Management Information Systems show that out of 12 magistracy districts and 16 locations only San Fernando, two and Scarborough have a Case Management Information System in place, Madam Speaker.

What about Port of Spain, what about Arima, Chaguanas, Mayaro, Princes Town, San Fernando? And you see why some of us would prefer if this Attorney

General spends his time making sure that the system, the judicial system is ready, capable and adequately resourced, rather than bringing us here week after week, to pass legislation which in our hearts of our heart we know it is inadequate and not consistent with best practices. And, Madam, with those few words, I thank you.

[Dr. Gopeesingh stands]

[Hon. Al-Rawi stands]

Madam Speaker: Attorney General.

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

[Desk thumping] Madam Speaker, I find it—*[Crosstalk]*

Madam Speaker: It will be up to your friend to give way. I saw the Attorney General.

Hon. Member: No, no.

Hon. F. Al-Rawi: I apologize, I did not see my learned friend there.

Mr. Imbert: I want to go home. He would just rant and rave.

Hon. F. Al-Rawi: My leader of my Bench is indicating that I press on. *[Desk thumping]* Madam Speaker, the level of preparation for a debate is indeed sincere. It requires people to actually find the most current and particularly most relevant material to speak too. And I regret— I am very pleased to have heard the contribution from the Member for Naparima who confessed to being 70 years old. I actually thought he was much older than that. So I am happy that he is as young as that. But, Madam Speaker, when you listen to the contribution coming from the Member for Naparima, he started off by, first of all listing out a number of matters at some point that the Office of the Attorney General is supposed to have lost at the Privy Council.

Madam Speaker, it is trite that the Privy Council is the highest Court of

Appeal for Trinidad and Tobago. For a matter to get to the Privy Council, it starts in the High Court, if it is of course a civil matter starting there; you then get to the Court of Appeal, you then go to the Privy Council. If you are dealing with an appeal from the magistracy you may very well have started in the Magistrates' Court, it may have involved judicial review, the substantive matter.

The Member does not even understand that by the time you get to court in 2019, the matter most probably started prior to 2015, because our Judiciary is clear that matters take quite a long time. So in laughing and bumbling and joking at his own contribution, the Member is, in effect, laughing at his own government, because the matters would no doubt have started long before I became Attorney General. But worse than that, Madam Speaker, the level of— how should I say it, the disappointment that I hold in the preparation brought by the Member for Naparima is really in his last position. The Member sought to put forward an argument that the Attorney General should fix the system first. And to anchor his submission, so diligent is the Member for Naparima, that he read from the Judiciary's report, its Annual Report for 2017/2018.

Madam Speaker, if the Member had a little bit more energy perhaps he could have directed his staff, there is an Annual Report of the Judiciary 2018—2019, the year after the one read by the hon. Member and had he bothered to do some homework as apart from just reading the law of Singapore, he would see that there is a section beginning at page 19 it is called, "*Transformation for Enhanced Delivery: Transforming the Criminal Courts*". The Judiciary speaks at page 20:

"The Criminal Division and...Criminal and Traffic Court Act No. 12 of 2018"

In that report at that page:

“In 2018 the Judiciary through the Juvenile Court Project and the Family and Children Division Act, No. 6 of 2016, sought to deliver on its commitments to improve”—services.”

They go on to improvements at “The Summary Courts, The Magistracy Registrar and Clerks of the Court”. They go on to, “The Court Managers and Assistant Court Managers”. They go on to “District Clerks of the”—court; “Comparison between Supreme Court and Supreme Court Office structure”; “District Court’s, day-to-day Leadership and Management...”; Implementing Criminal Caseflow Management Strategies in Criminal Division...”; “Trial by Judge Alone”; “Individual Calendaring System”; “Transformation for Greater Efficiency and Public Convenience”; “Judiciary E-Initiatives”; “Caseflow Management Information...”. It goes on to speak to “Transforming the Traffic Court with TT.jim”. It goes on to “E-Services”. It goes on to “CourtPay”; “CourtMail”; “E-Probate”; “BailNet”; [*Desk thumping*] “E-Services integration”; “Small Claims”—court; “Future of Small Claims”; “Process...Handling”; “Courthouse Development”, at page 43; court house development being at an all-time high. It shows the “Family Court, Tobago...”; “Customerservice...Children Court”.

It steps into the 25 courts opened by our Government. It goes in to the “Princes Town Magistrates’ Court”; “Arima Magistrates’ Court”; “San Fernando...”; “Sangre Grande...”; “Siparia...”; Family and Children Division”. My Lady, hon. Speaker, it is shameless that the Member for Naparima cannot even read from the Judiciary’s own pronouncements in the Annual Report of 2018/2019. He said that somehow this Government is supposed to be lazy.

Madam Speaker, that is the epitome of sloth, intellectual sloth to read an annual report which is more than one year old when the one produced by the

Judiciary this year basically gives chapter and verse of the active implementation. The hon. Member sought, laughing at himself, to ask and offer to give way to the Member for Diego Martin North/East. Madam Speaker, he read from the *Hansard* contribution when we debated in November 2011, the parent Act which we seek to amend. He read from page 324. He said that the Member, that is the hon. Colm Imbert, Minister of Finance, he said:

“Defence lawyers are going to”—have a field day, they will—“make mass...”—you have to have—“rules in place...support staff...judicial”—staff.

Madam Speaker, in 2011 there was an undertaking given by the UNC in passing the law then, the parent Act which we seek to amend now, that they would not operationalize that law until rules of the Supreme Court were put in place, until Masters of the Court were hired to do the case management sufficiency hearings and until we had more courts.

And, Madam Speaker, the Member for Naparima said that this Government is somehow lazy. It is a fact that when section 34 was proclaimed, the only section of the Act that was proclaimed apart from the short title that when section 34 was proclaimed and 40,000 people took to the streets of Trinidad and Tobago, [*Desk thumping*] that the only thing that existed then was section 34. There were no rules at the Supreme Court, there were no Masters of the Court, there were no court rooms, but, Madam Speaker, there were no support staff.

Madam Speaker, in 2016, this Attorney General brought the Criminal Proceeding Rules. In 2016 and 2017, this Attorney General and this Government brought the Family and Children Division and Criminal Division taking the judicial compliment from 36 to 64 in the High Court and 12 to 15 in the Court of

Appeal. It is a fact that when that Member sat as the wheelman in operation for the UNC, making policy on the fly literally, that there were only two Masters of the High Court. We now have going on to 14 Masters of the High Court.

Madam Speaker, they shut down, under the UNC, under Senior Counsel for Siparia, they shut down the building and maintenance facilities of the Judiciary. Why? Because they said they were going to build judicial complexes. The only judicial complex that was built, Madam Speaker, was the one on paper done by architectures that broke the Central Tenders Board Act, they had to abandon the position, they did no maintenance of the High Court or Magistrates' Court for a full five years and three months and then are somehow surprised that we have had to build new courts, open new courts, have maintenance in place.

Madam Speaker, the Member for Naparima lacks all form of shame. There is no form of reflection by the hon.Member for the truth as to the facts that are on the record. So the hon.Member for Diego Martin North/East was absolutely correct, that there would have been a terrible situation with lawyers having this position on the record. But, Madam Speaker, the Member for Naparima said something that was quite interesting. Hear what the Member had to say. He said "they", he kept going on with the "they" and the "they". They should have the facility to have prosecutors effectively pay the cost of prosecution.

Madam Speaker, where was that hon.Member, where was the Member for Siparia when we took legal fees up to \$1.4 billion in expenditure? Where was that Member when we had to repeal section 34 and Lord Pannick charged this country more than \$10 million to appear to do the court matter at the High Court?

6.45p.m.

Madam Speaker, I want to tell you something, and I say this most

respectfully. Recently we were given a tipoff by a member that sat on the UNC side—quite a public tipoff—that there were legal fees expended in doing a certain review. As a result of that tipoff, Madam Speaker, I had cause to call for the files, and in calling for the files, I asked to see the invoices from certain attorneys who are Queen’s Counsel based abroad. Madam Speaker, do you know what I found? There was a bill for a particular Queen’s Counsel in England to advise on a matter, a very large sum. The hon. Member for Naparima quarrelling, “Yuh cyar get points” and he wants prosecutors to pay. Madam Speaker, I wrote to the Queen’s Counsel in England to ask him to produce the opinion that he was paid for. To my shock, Madam Speaker, the Queen’s Counsel, assuming it is the same one, wrote back to me saying, “I have never done work for the Republic of Trinidad and Tobago. I know nothing about this matter. You surely must have another person by the same name in the same Chambers”, even though there is no one else by that name. That is what the UNC left for us, and I could tell you that that matter is under active criminal investigation as we speak. [*Desk thumping*]

So when I hear the Member for Naparima has a new-found glorious salvation for the taxpayers of Trinidad and Tobago, too little, too late, Madam Speaker. That is intellectual hypocrisy at its highest. The audacity of the hon. Member, the bald-facedness of the hon. Member, to raise things like that when on the record we can have scandalous situations like that, Madam Speaker.

Mr. Hinds: “Overseered” by Siparia.

Hon. F. Al-Rawi: Madam Speaker—

Mr. Imbert: Overseen.

Hon. F. Al-Rawi:—what I can say is that I heard one degree of sense come out in this debate, and one only. It certainly was not the allegation by the Member for

Naparima that the Government was lazy in its approach. The Member raised the issue of the bail amendments and said, “Everybody knows that they have ARs and automatic weapons in Trinidad and Tobago. Why we did not bring a law for that?” Madam Speaker, we introduced the offence of trafficking for firearms in August 2019. When we created that offence, it was the first time we could have dealt with in the Bail Act. Maybe the Member was just absent on that day as he appears to be absent today, intellectually speaking. Madam Speaker, the fact is, the statistics show that there were zero fines for automatic weapons up until about 2016, Madam Speaker. Today it is commonplace.

Madam Speaker, I want to put on the record who we consulted with on this law: the entire collection of judges assembled by the Chief Justice; Justices of Appeal; Justices in the High Court in the Assizes; the Chief Magistrate; the Registrars of the Court; the Masters of the Court; the IT technicians; the Executive Court Administrator; the DPP himself, the hon. Roger Gaspard of Senior Counsel; Mr. Edward Jenkins, QC, Madam Speaker. Madam Speaker, today the Member for Naparima call “all ah dem lazy”. He said all of them did no research. That is what the hon. Member effectively said when he said that the Attorney General brought legislation that was ill-thought-out.

He criticized the entire CPC’s department, the LRC, all the hardworking technocrats at the Trinidad and Tobago Police Service, the lawyers there, the people that are on the ground fighting criminality. This Member had the audacity to stand up and call all of them lazy, Madam Speaker? And with aplomb, you know. So convinced of his position that he laughs at himself before he even finishes the statement. Madam Speaker, really, we have to be subjected to that?

And here is the worst part. The hon. Member says that the Bill is bad

because we are amending the Bill—in the clauses that we are doing we are amending the parent Act of 2011. Madam Speaker, let me remind the country, the Administration of Justice (Preliminary Inquiries) Act of 2011 was authored by the United National Congress. It was authored by the Member for Siparia and by then Attorney General, Anand Ramlogan in 2011, long before they got Senior Counsel. So good was that piece of law, that they then saw fit to recommend to themselves that they get Senior Counsel, and they granted it. But, Madam Speaker, if that law is the same law we are amending today, we amend it by Bill No. 1, Bill No. 2 and now Bill No. 3. And we did that, Madam Speaker, because we went to the stakeholders. We traversed the law. Bill No 1, Madam Speaker, are the amendments that I, as Attorney General, brought because we needed to just amend the parent Act because it was deficient.

Bill No. 2 and today's Bill were driven in the process of consultation of stakeholders. And, Madam Speaker, I want to say where the recommendations for amendment came from. They were born out of the judicial practice at the courts. As a result of judgments recently coming to the fore, we were advised by the DPP's office, in particular, to cause certain amendments. Madam Speaker, when the Director of Public Prosecutions writes to you and says, "Look, there have been recent amendments—there have been recent considerations in the law which we believe you ought to take note of. We consider that you ought to treat with this now", what are we to do? Just simply do nothing?

Madam Speaker, it was the same DPP that had to write Anand Ramlogan as Attorney General when they proclaimed section 34. He wrote that it was a dangerous move to have proclaimed the law without any consultation; cost the country millions—tens of millions of dollars, Madam Speaker, in that. In fact,

today we now learn—and I would not go too deep into it—that some of the costs spent by the last government ended up in pockets of attorneys-at-law now before the courts.

Hon. Member: Hmmmm.

Hon. F. Al-Rawi: And we must listen to that? Madam Speaker, we tell Trinidad and Tobago that we did consultation right. We went to the DPP prior to a proclamation and we established this position. Now, Madam Speaker, the Member for Oropouche East raised a point implying that there was a conflict of interest in my piloting this law today, and I would like to put that squarely to bed. Madam Speaker, as Attorney General and Minister of Legal Affairs holding office pursuant to the Prime Minister's instruction and entirely subject to his prerogative, his pleasure, I, of course, have had cause to make certain reports and certain matters brought to the attention on law enforcement. I can tell you, in discharge of my obligations as a Senator and as attorney-at-law for the hon. Prime Minister, then in Opposition, I also had cause to present certain matters to the courts. It is axiomatic that lawyers, in any form or fashion, are going to potentially be witnesses to court, but when we come here, Madam Speaker, we come here to debate law. If there was a conflict of interest, the conflict of interest under our rules in the Parliament are only in existence if you have a pecuniary gain to have. And if you do have a money-in-your-pocket scenario to gain on the passage of the law, you declare that and you press on, and you continue.

The fact that I may be a witness in matters, the fact that the Member for Siparia will be a witness in matters, or the Member for any other one of us who are involved in the practice of law, is irrelevant to this, Madam Speaker. There was criminality in the LifeSport matter. The person that birthed LifeSport was the

Member for Siparia. The Member for Siparia is therefore likely to be a witness in the matter. But we “doh” raise that as a point of any serious moment, Madam Speaker.

People say that you need to know everything. Madam Speaker, Trinidad is a country of one degree of separation, you know. If we, each and every one of us, start to count relatives, nobody could do anything. But the position is so foolish, it means that nobody could debate the Finance Act every year or the budget every year, when “yuh” passing law which will give you a benefit in taxation, because you are a person who pays taxes in the country. What kind of insanity is that, Madam Speaker? It is just all how wrong, Madam Speaker.

Madam Speaker, the Member for Oropouche East made a point which I thought was deserving of a second look. The hon. Members raised the point of the section 5 amendments where we look to the search warrant aspects. And I would like to put on record, Madam Speaker, on looking at the warranting aspects, section 8 of PACE is material for factoring. And that is, of course, where the process of reform is driven. That came from a recommendation from Mr. Edward Jenkins who is the Queen’s Counsel acting for the DPP in a number of matters. And, Madam Speaker, the Police and Criminal Evidence Act, 1984, as it is up-to-date to 2019, in section 8 of the Police and Criminal Evidence Act which quite simply in the UK they refer to as PACE—P-A-C-E. It is an acronym for that Police and Criminal Evidence Act. It sets out, and I want to read what it sets out that:

There may be an application by the constable to a Justice of the Peace.
Stick a pin. We recommend a Master. We are not going with a Justice of the Peace.
We are going with a Master who is a judicial officer in the High Court. Secondly,

they allow for—here is what they call specific premises warrants and all premises warrants and they allow that:

Premise may be one or more set of premises specified in the application, or any premises occupied or controlled by a person specified in the application, including such set of premises as are so specified.

This law also goes on to say that you may authorize multiple entries. The number of entries authorized may be unlimited or limit to a maximum.

And, Madam Speaker, I recognized—that is why in the piloting of this law—that we ought to tighten some of the safeguards to this. We are including conditions for the grant, the factors that the Master ought to consider and the power to go. But, Madam Speaker, insofar as the use of unlimited number of times, may, in fact, be a little bit wide, we are prepared to make adjustments to that, as a result of which I have asked the drafting team to circulate some amendments now to the hon. Members so that we can consider this particular position.

Madam Speaker, the Member for Naparima, in his usual style, sought to read out everything from the laws of Singapore, again cherry-picking the laws of Singapore. Madam Speaker, these hon. Members come to us to prescribe everything under the sun, the moon and the stars. If you spit chewing gum on the sidewalk in Singapore, you are subjected to flogging in public, Madam Speaker. But the Member for Naparima will not support taking bail restrictions for possession of automatic weapons. So he comes to preach to us, “Singapore, Singapore”, looking like “he having” a heart attack, Madam Speaker. The hon. Member comes to prescribe the laws of Singapore where you will be flogged and caned in public for spitting chewing gum on the sidewalk, and this hon. Member will not support the measures to ask a court to consider not granting bail if you

have automatic weapons and “yuh cyar” explain it, Madam Speaker. I mean, come on, Madam Speaker.

Dr. Rowley: Coming from the bowels—

Hon. F. Al-Rawi: Quite correctly, coming from the bowels of the PNM, he says. The example of a perfect movement, Madam Speaker.

Madam Speaker, there really is very little else to say in terms of commentary coming from hon. Members opposite other than to address in one point. I will just join and adopt the submissions from the Member for Laventille West on the constitutionality of this law. Madam Speaker, it is trite law that the Privy Council has set out for us and our own Court of Appeal has applied on umpteen occasions what the test of proportionality is and what the circumstances for the grant or the utilization of section 13 of the Constitution is. It is now settled law that not every right which is identified in the Constitution in sections 4 and 5, when infringed, require a three-fifth majority or a deeper form of entrenchment. It is trite law that the position is, quite simply, that if you have a legitimate aim, if your law is rationally connected to that aim, if you go no further than you need to in the management of that law, if you are going only within the confines of what the current law knows, that you do not need a three-fifths majority. That is point one.

Point two: when the UNC brought similar laws, they brought it without a special majority. Point three: wherever you have due process. Let me explain what that means. Where you leave it to the court to decide if something is going to be done or not in their sole discretion, you do not fetter that discretion. You allow for the separation of powers principle. You allow not only for a court to consider it, but you also preserve the right of appeal to the Court of Appeal and to the Privy Council. That due process removes you from the need for special majority

consideration, and that has been set out in umpteen decisions, Madam Speaker, of the court, High Court, Court of Appeal and Privy Counsel. There is no issue as to constitutionality of this. Madam Speaker, we, in the PNM, believe that First World law is good enough for Trinidad and Tobago. [*Desk thumping*] We do not see ourselves as a Third World country that must destine its purpose solely to what the rest of the world has left behind decades ago. In the United Kingdom, in the amendments that they cause, 1984 they introduced PACE. In the year 2000, they dealt with the abolition of computer evidence in the Evidence Act.

Madam Speaker, when the hon. Members seek to say that the Commissioner of Police apologized for Gulf View, the Commissioner of Police did not apologize for Gulf View. I was there at the meeting in Gulf View, which I convened as Member of Parliament in Gulf View. And the Commissioner of Police said that to protect the citizens of this country in hot pursuit to liberate someone who was kidnapped, where the triangulation data demonstrated that the source of the phone call came from the area, it was in those circumstances that the police, in hot pursuit, entered homes in Gulf View. The Commissioner of Police said that day, as I recall, that he makes no apology in protecting citizens' lives, Madam Speaker. He said that if you wanted your family member recovered, I am sure, as you see in the United States where doors are broken down to retrieve people, that you would want that done.

So, Madam Speaker, let us get this clear. The Commissioner of Police said that it is the same level of anxiety and approach that was applied in Westmoorings, in Tobago, in Charlieville, in Gulf City; that he did not see houses by virtue of who ethnically occupied or who politically occupied something. And I, knowing the Commissioner of Police as I do for years, can testify that the man is about policing,

Madam Speaker. [*Desk thumping*] And that is just simply it.

Madam Speaker, we have brought amendments to the Administration of Justice (Preliminary Inquiry) legislation. We have brought amendments to law that did not contain anything of the type that we have brought in amendment No. 1, in amendment No. 2 and in this amendment No. 3. We have brought this law, having operationalized the system. We have created rules of court, as I say, in summary. We have opened new courts. Madam Speaker, in the early part of next year, by the time we are finished with retrofitting this particular place—and I am talking criminal courts alone—we will have opened 100 new courtrooms, Madam Speaker. [*Desk thumping*] Let me repeat that. One hundred new courtrooms. We have hired over 350 new employees at the Judiciary's end. We have brought processes forward by introducing "Judge Only" trials. They are already in existence. We have brought in plea bargaining, already in existence. We brought in maximum sentence indicator, already in existence.

Madam Speaker, what I believe hon. Members opposite are afraid of—and I say this in answer to the Member for Naparima's contribution—is perhaps there is a little bit too much protest coming from Members opposite. Madam Speaker, we have said that this law applies to everyone. It applies to us; it applies to the average citizen. The evidence on the outside speaks to that. Madam Speaker, I do not think that there is—

Madam Speaker: Attorney General, your original speaking time is now spent. You are entitled to 15 more minutes to wind up.

Hon. F. Al-Rawi: I need one. Madam Speaker, I do not think there is anything else to address and I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

PROCEDURAL MOTION

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

Thank you very kindly, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5) I beg to move that the House do continue to sit until the conclusion of this matter and Motions two and one, in that order. Thank you, Ma'am.

Question put and agreed to.

ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS)

(AMDT.) (NO. 3) BILL, 2019

Hon. F. Al-Rawi: Madam Speaker, in accordance with Standing Order 68(1), I beg the move that the Administration of Justice (Indictable Proceedings) (Amdt.) (No. 3) Bill, 2019, be committed to the committee of the whole.

Question put and agreed to.

House in committee.

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: Attorney General.

Dr. Gopeesingh: Madam Chair, I asked the Attorney General to give us an—

Madam Chairman: One minute.

Dr. Gopeesingh: Clause 5.

Madam Chairman: Okay. So Member for Caroni East, just let the Attorney General address us and then I will take you.

Dr. Gopeesingh: Okay.

- (A) In subsection (1A) insert, in the chapeau, after the word “warrant”, the words “issued under subsection (1)”;
- (B) In proposed subsection (1B) insert after the word “issued” the words “and such search warrant shall be valid for such period as may be specified in the search warrant.”;
- (C) Delete proposed subsection (1C) and replace with the following:
“(1C) A Master may also issue a search warrant under subsection (1A) where –
 - (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with any person entitled to grant access to the evidence;
 - (c) entry to the premises will not be granted unless a warrant is produced; or
 - (d) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to the premises.
- (1D) The power to issue a warrant by this section does not preclude the exercise of such powers under any other written law.”

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, we propose the amendments as circulated to clause 5. Firstly, Madam Speaker, in subsection (1A) which is on page 3 of the Bill, you will note we are asking in the chapeau after the word “warrant”, we wish to insert the words “issued under subsection (1).” And that is to provide clarity to the Bill because it just did not read right.

The second thing that we propose is in subsection (1B) and that is at page 4

of the Bill that we insert after the word “issued”, the words “and such search warrant shall be valid for such period as may be specified in the search warrant.”

And if I could explain that. So it would now read:

“A search warrant may authorise the search of premises on more than one occasion if the Master is satisfied that it is necessary to authorise multiple searches in order to achieve the purpose for which the search warrant is issued, and such search warrant shall be valid for such period as may be specified in the search warrant.”

Madam Speaker, the TTPS and the DPP’s office have confirmed that usually there is no time period inserted into warrants. There is a rule of thumb which they operate under, which is that they generally will go back after a month. But it is technically not something which is put into time. Because we are introducing for the first time the concept of multiple search warrants, we are proposing that we add these words so that a Master—not a magistrate; remember this is a superior judicial officer to what normally is the procedure under Chap. 12:01—that a Master would consider validity for such periods as may be specified in the search warrant.

In those circumstances, Madam Speaker, taking into account the observations made by the Member for Oropouche East in (C), where we had proposed that multiple search warrants may be unlimited or limited, we are proposing to delete that (1C) in the form that it was expressed at page 4, and instead provide as set out at (1C) in the circulations where we now say:

“A Master may also issue a search warrant under subsection 1A) where”—
And here we provide further safeguards. The safeguards we provide are lifted directly from PACE, that is section 8(3), (4) and (5) of PACE for the record, so that Members can find it later. It is (a) in the circumstances set out here—(a) through (d), where—

- (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
- (b) it is practicable to communicate with a person entitled to grant entry to the premises, but it is also not practicable to communicate with any person entitled to grant access to the evidence;
- (c) entry to premises will not be granted unless a warrant is produced;”

And importantly:

- “(d) the purpose of the search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to the premises.”

I just want to say this is actually in keeping with the practice of hot pursuit where you have reasonable suspicion and you do not have a warrant. The current law allows for the concept of hot pursuit and the entry for certain purposes. That is, again, settled law. So we have gone no further than prescribing what is settled law in the country. We have also borrowed strictly from the methods set out in section 8(3) onward of the PACE reforms as they stand at 2019.

Madam Speaker, we add in the caveat in (1D) that:

- “The power to issue a warrant by this section does not preclude the exercise of such powers under any other written law.”

And I want to say why for the purposes of *Hansard*. There is a rule that—and there is an application of law—that law can impliedly repeal or affect earlier laws. We are making it, therefore, entirely, pellucidly clear that we are not affecting the search warranting in other laws. Why? We do not want to touch laws such as the Proceeds of Crime Act, the Dangerous Drugs Act, the Firearms Act, the Anti-Gang Act, the Anti-Terrorism Act, to name a few. We specifically seek to cauterize this in the circumstances set out here. That is the rationale, Madam Speaker, for the

proposed amendments.

Madam Chairman: Member for Caroni East.

Dr. Gopeesingh: Thank you, Madam Chair. Attorney General, 5(A) that you have proposed in your amendment:

“In subsection (1A) insert, in the chapeau after the word ‘warrant’, the words ‘issued under subsection (1)’”

Can you just read out for us now how would it read based on your amendment?

Mr. Al-Rawi: May I, Madam Chair? It would read:

“1A”—if you follow at page 3 of the Bill—

Dr. Gopeesingh: Yes.

Mr. Al-Rawi: “A search warrant issued under subsection (1) may authorise the search of—”

Dr. Gopeesingh: All right. Thank you. Could you, under (1A)(b), explain what you mean by:

“...any premises occupied or controlled by a person”—

That word, to me, is ambiguous or not clearly defined. If there is in law—forgive me. I do not know. But what do you mean by “controlled”? I cannot understand, control of premises.

7.15 p.m.

Mr. Al-Rawi: Sure. So the breadth of this language is firstly in keeping with what we know the law to be, but it is specific because we do not want to have to go for the legal owner of premises. So let us say X Limited owns the property, you have a deed, you see it is owned by a company limited in liability—technically the owner is the company—you will have to get the shareholders or directors consent, but when you arrive at that warehouse, for example, owned by a company, there

may be somebody controlling the property, the manager in charge, the guard who is on duty that night. That person maybe controlling the property.

Similarly, we have to accept circumstances where we are treating with equitable ownership, where somebody might be the beneficiary of a property but not the actual owner of the property in law. There is a difference between the fair owner, or beneficial owner, and the legal owner. Somebody may have inherited property and not quite transferred the property to their own name because there is a problem with the probate cycle. So it is specifically intended to treat with any premises occupied or controlled by a person specified in the warrant. Remember, the warrant must say who you are going for. So it is the premises of John Brown; it might be rented premises that you know John Brown rents, you are going to be naming those premises of John Brown not Jane X who he rents from.

Dr. Gopeesingh: But is there not something in this legislation which said you must give the search warrant to the owner of the premises, what you just quoted here?

Mr. Al-Rawi: Yes, at (2A) of page 5 you will see:

“Where the occupier of any place which is to be searched is present at the time...”

—because the person may not be there. Maybe a home that is locked—

“...when a constable seeks to execute a search warrant, the constable shall—

- (a) identify himself to the occupier...produce...documentary evidence...;
- (b) produce the search warrant to the occupier...”

That has been a perennial problem where people complained.

In fact, the Member for St. Augustine gave that example of picking up a warrant in one of his cases which was on the floor. In this case here we are putting a positive obligation in law that you have to give the people a copy of the search

warrant. Not flash it and wave it. So we are providing a very sincere safeguard in the law in (2A) which you will see provided at page 5.

Dr. Gopeesingh: I am still not comfortable with your explanation on what is controlled because you gave a number of variable situations here which allow for ambiguity in terms of the person really controlling the premises.

Mr. Al-Rawi: So there is no ambiguity ultimately in the courts because it has been tested so many times, what owner, occupation and control looks like. Look, the Prime Minister just asked me something which was very important and I will put it on the record. What happens if the person refuses to take the search warrant, and then alleged did not give it to them? The law is you throw it at their feet. Like when you refuse to accept service of a court document, the court process officer can actually throw it at your feet.

I recall being in a funeral once where I was to be served with election proceedings, and whilst in the middle of talking to the family of the funeral member the person sent by Mr. Ramlogan to serve me came into the church while I was talking to the family members and threw the document at my feet and said, “You have been served,” in front of hundreds of people, with the family in ghastly shocked that somebody will choose to service an election petition on me in the middle of a funeral.

Dr. Gopeesingh: I have one more, Madam Chair, on clause 5.

Madam Chairman: Member for Caroni.

Dr. Gopeesingh: In your amendments which you have submitted to us just a while ago, the extent of amendments AG, under 5(1C), let me go the (a), (b), (c), that is, “that entry to premises will not be granted unless a warrant is produced”. Is that not what should have been existing all the time? Why is there a necessity to bring this in again? Please forgive me, I—

Mr. Al-Rawi: No, no, not at all at. Madam Chair—

Dr. Gopeesingh: Let me give you an example. In 2002, AG, officers came to my office in 4 Broom Street and had no warrant whatsoever. I called my attorneys and asked them if they can search my premises. They said no they cannot search it. The officers went to search my premises, and then went to my home without a warrant. So if entry to the premises will not be granted unless a warrant is produced, what can the owner of the premises do if the search warrant is not there? He is merciless to the police officers.

Mr. Al-Rawi: Well he is not merciless. So to answer your first—

Dr. Gopeesingh: He is helpless.

Mr. Al-Rawi: I understand what you mean. I caught it as helpless, right?

Dr. Gopeesingh: Yes.

Mr. Al-Rawi: So you asked a very important question: Why put this in? Why put the power of search warrant? It is because we are going to abolish and repeal the Indictable Offences (Preliminary Enquiry) Act. Chap 12:01 at section 5 is where the existing law treats with a search warrant. It is much more relax. The existing law is by far more relaxed than what we are producing here. It says:

“(1) Any Magistrate”—not Master—“who is satisfied by proof on oath that there is reasonable ground for believing that there is any building, ship, vessel, carriage, box, receptacle, or place—

- (a) anything upon or in...any indictable offence has been or is suspected to have been committed; or
- (b) anything which there is reasonable ground for believing will afford evidence as to the commission of any such offence; or
- (c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing...

may at any time issue a warrant under his hand authorising any constable to search”—that—“place...before the Magistrate issuing the warrant”—et cetera.

So the current law for search warrant, section 5(1), is much broader than what we are providing here. We are actually adding in some safeguards here now that quite frankly we think are proportionate in light of what the society now says, where there are allegations that people do not want to leave them with a copy of the warrant, they are guessing, they are frightened, et cetera. So we are adding for those things now. To answer the position of being helpless, that is where you have to allow the police to do their job, you have remedies, malicious prosecution, false imprisonment, assault. Yes, they are expensive, but that is the recourse that you go through. It has been in existence for many, many years, and that is just unfortunately the manner in which society allows for the privilege of the police to go to work. We trade our rights. Our right of being protected, we give some of it up to allow for these legitimate purposes to prevail.

Dr. Gopeesingh: But do you really expect me to give up my right to allow police officers to come in my premises without a search warrant? When I asked them, “Where is their search warrant?”, they say it is coming, and they eroded the sanity of my home and the privacy of my home where my wife who is an attorney was sitting, relaxing on an evening at five o’clock and here it is the police come into my home. And that is the case which was when the charges were laid the Chief Magistrate of this country, Mr. Mc Nicolls, said that these are charges not known to law.

Mr. Hinds: The money was paid back—

Dr. Gopeesingh: Come on, behave yourself.

Mr. Hinds: The money was paid back.

Mr. Al-Rawi: Madam Chair, there is just one small note on what is circulated at (c), where you see at (c)—

Madam Chairman: Members, could we have some attention please. Yes, Attorney General.

Mr. Al-Rawi: The drafters have just pointed out that unfortunately they had used the word “and” at (c) to (d). If you look at (c) it should be “or” because it would be impossible to marry (a) and (b). They are polar opposites.

Madam Chairman: Sorry, Member for Caroni Central.

Dr. Tewarie: Yes. I wanted to ask a question related to the constraints that you have now put on the time. So 5(B):

“...such search warrant shall be valid for such period as may be specified in the search warrant;”

So this is now going to be a time bound.

Mr. Al-Rawi: If the Master thinks that is should be, yes.

Dr. Tewarie: All right. Okay.

Mr. Al-Rawi: And currently the existing law does not have anything in this.

Dr. Tewarie: Okay. But this would introduce an element that can make it time bound even though for multiple warrants.

Mr. Al-Rawi: Yes.

Dr. Tewarie: Okay. The second thing here is that the other part of the law though in the amendments that you brought had to do with multiple destinations for search. How is that addressed here?

Mr. Al-Rawi: So in (1A) we are allowing for the concept of multiple premises. What we did is we removed the (1C) of limited and unlimited number of times. So we are allowing the multiple premises. I took Oropouche East’s point about the unlimited point. Even though England has it we have moved away from that. We

have kept with the multiple premises but we have are also given some reflections for the court to look at, the practicality of getting in, and if the Master chooses to put limitations for time restrictions we are allowing for that. The current law has none of that. Right now they just issue a warrant and it is arguably valid. There is no position that says when it expires. As a rule of thumb, the Trinidad and Tobago police tell us that they usually after one month will go for a fresh warrant even though there is no time frame on it.

Dr. Tewarie: Okay. As the law will stand with the amendments that you here proposed, it will then cover multiple or any premises, but be limited by the time frame if such a time frame is determined by the Master of the court. I got it?

Mr. Al-Rawi: That is correct. That is exactly it.

Dr. Tewarie: All right. Okay.

Mr. Al-Rawi: Madam Chair, just a few more words splitting points by the CPC. At (1C) paragraph (c) if you could just strike the word “that”, and at (b) strike the word “where” because there would be two “where”s if you see it is in the chapeau as well. And then, of course, “and” goes to “or” at (c), and then instead of “to them” at the end of (d), you see those two words there, if we change that “to the premises”. That is it.

Madam Chairman: So the question is that clause 5, be amended, as circulated, and further amended added at 5(C) to delete at (1C) (b) the word “where”, at (1C) (c) to delete the word “that”, and to change the word “and” to the word “or”, and at (1C) (d) to delete the word “them” and substitute the words “the premises”.

Question put and agreed to.

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

Madam Chairman: Whip, can we take clauses 6 to 23 together?

Mr. Al-Rawi: Madam Chair, just for clarity, just remember there is a (1D) as

circulated, yes?

Madam Chairman: Yes.

Mr. Al-Rawi: So that will gone as circulated—

Madam Chairman: Yes.

Mr. Al-Rawi:—and as further amended. Thank you.

Dr. Tewarie: Madam Chair, 15.

Madam Chairman: Okay. So we will call then clauses 6 to 14. Yes?

Clauses 6 to 14 ordered to stand part of the Bill.

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Section 21 of the Act is amended—

- (a) in subsection (2)(d), by deleting the word “fourteen” and substituting the word “ten”; and
- (b) in subsection (8), by inserting after the words “Coroner,” the words “the High Court,”.

Madam Chairman: Member for Caroni Central.

Dr. Tewarie: I just have a question for the AG, Chair, and that was: Why is the age—

Mr. Al-Rawi: Dropping to 10?

Dr. Tewarie: Yes—dropping to 10?

Mr. Al-Rawi: Madam Chair, it is section 98 of the Children Act. In section 98 of the Children Act, we amended that in 2016 under the Family and Children Division Act, in the Fifth Schedule to that law, where we brought the law down to 10 in keeping with what the court has been doing and recommended.

Dr. Tewarie: So this will be part of the consistency?

Mr. Al-Rawi: Correct.

Question put and agreed to.

Clause 15 ordered to stand part of the Bill.

Clauses 16 to 23.

Question proposed: That clauses 16 to 23 stand part of the Bill.

Dr. Gopeesingh: Madam Chair, 16, Attorney General, (d), if it reads:

Section 24 of the Act is amended—

(d) in subsection (6), by deleting the words “under subsection (4) shall be ex parte and” and substituting the words “for a warrant under subsection (4) shall be made ex parte...”;

Now, ex parte is a very dangerous thing for any individual when things are taken out without their knowledge. Could you help to clarify why you have it remaining as ex parte rather than inter partes?

Mr. Al-Rawi: May I? Madam Chair, first of all I have provided all Members with a marked up version of the Act as it will be amended for exactly this purpose to make it easy to read. Section 24 of the Act deals with discharge of the accused, and this is the circumstances where the DPP does not effectively proceed within one year, you may apply to discharge on the grounds of delay except for the matter set out in the Sixth Schedule as has recently been amended up to October of this year.

What we are doing, Madam Chair, in subsection (1), we are first of all adding in the concept of prima facie so that we put the standard clear. In subsection (4), deleting the words “judge for warrant of arrests” put the accused on trial, we are just splitting that up to make it abundantly clear between paragraphs (a) and (b). It is really just linguistic, for clarity. In subsection (5) “A request”, and then we are adding in the words there to treat with it “for the record of the proceedings”. When we get down now to (d) in subsection (6), here is where the

Act says an application—it said, “under subsection (4) shall be ex parte”. Subsection (4) is:

“Where the accused is discharged, the Master shall, on written request to the”—DPP—“transmit within fourteen days to the”—DPP—“the record of proceedings, and if the”—DPP—“on perusing...is of the opinion that the accused ought not to have been discharged, he may apply to a Judge for a warrant...”

So we had removed the combination of them there.

So we are saying that that application by the DPP, the unilateral reconsideration of the DPP for a warrant under (4) shall be make ex parte and within three months. So let us hit it this way. Section 23 of the existing law, Chap. 12:01, allows the DPP the same privilege. It is where the person was discharged by the court and the DPP says on his review he believes that ought not to have been done. The DPP approaches the court and says, “Look, I need you in these circumstances to issue a warrant for that person’s arrest because that person ought not to have been discharged”. It is in keeping with section 23 of the existing law. It is the same power that exists right now and what we have done is to just keep it within this Bill.

Dr. Gopeesingh: Can I? From my little perspective, I know that there is something in law called double jeopardy. When someone is released or discharged to file another case against that same person can be considered as double jeopardy. It cannot be entertained.

Mr. Al-Rawi: Madam Chair, the hon. Member appears to be much more of a lawyer than a doctor tonight, but what I will say is that the concept of double jeopardy, and in this case autrefois acquit, which is the actual subset of double jeopardy that you have already been acquitted. This in law is not an acquittal. The

preliminary enquiry process is subjugated to the Constitution. So the DPP has the right to bring indictable proceedings under section 90 of the Constitution to take them over or to end them. Because the preliminary enquiry is in fact not something on the merits of the case because there is prima facie standard under section 23 of the law, 23(1) and (2) of the existing law, it is not deemed to be an acquittal for the purposes of double jeopardy. It is in fact a step significantly before that.

The springboard for this is to be found in section 23 of the Indictable Offences (Preliminary Enquiry) Act, in section 23, and if you have Chap. 12:01 you will note that the DPP may have the position. Subsection (6), for example, if the judge—sorry, subsection (8).

“Notwithstanding subsections (5), (6) and (7), the Director of Public Prosecutions or Deputy”—DPP—“may prefer and indictment whether or not a preliminary enquiry has been conducted...”

And then they go on to the circumstances there. They deal with in subsection (5):

“In every case in which a Magistrate discharges an accused person on a preliminary enquiry, he shall if required to do so by the”—DPP—“transmit forthwith to him the record”—or—“proceedings, and if the”—DPP—“on perusing and considering the evidence, is of the opinion that the accused ought not to have been discharged, he may apply to a Judge of the High Court for a warrant for the arrest and committal for trial of the accused person.”

So subsection (5) has that. The DPP pointed out to us that he wanted to maintain that power of the existing law, section 23(5), and so we repeated it on this basis.

Madam Chairman: So can we proceed with 16 to 23. Yes?

Question put and agreed to.

Clauses 16 to 23 ordered to stand part of the Bill.

Clause 24.

Question proposed: That clause 24 stand part of the Bill.

Insert after the words “section 14B” the words “and substituting the following:

Admissibility 14B. Notwithstanding section 2, in any criminal of computer proceedings, the question as to the admissibility or sufficiency of any statement contained in a document produced by a computer shall be decided in accordance with the Common Law.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chairman, clause 24 is where we do the consequential amendments which would be contained in the Schedule to the original law. What we proposed here, Madam Chairman, specifically on the direct advise of the DPP, there were two bits of advised that we received, one, in the context of the evidence, special select committee which we are receiving, and we received the written submissions coming from the DPP; and then secondly in our sit down consultations with the DPP and Mr. Jenkins, the recommendation to adopt that which was done in the United Kingdom when section 69 of the PACE law was abolished in the year 2000 came to the fore. The position that we recommend here, instead of just repealing section 14B of Evidence Act we want to put a positive statement that the common law applies in those circumstances. There are differing views as to this particular position, but there is a very strong view by the DPP’s Office, in particular, that we ought to go to the common law approach for the admissibility of computer evidence, that being a presumption of functionality of the equipment unless it is put into dispute, in which case you then have to prove

that it was functioning properly correctly, hardware versus software. So that is the rationale for the proposed circulated amendment.

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

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

House resumed.

Hon. F. Al-Rawi: Madam Speaker, I wish to report that the Administration of Justice (Indictable Proceedings) Amdt. (No. 3) Bill, 2019 was considered in committee of the whole and approved with amendments. I now beg to move that the House agree with the report from the committee.

Question put and agreed to.

Bill reported, with amendment, read the third time and passed.

DANGEROUS DRUGS (AMDT.) BILL, 2019

Senate Amendments

Madam Speaker: The Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the Senate amendments to the Dangerous Drugs (Amdt.) Bill listed in Appendix III be now considered.

Question proposed.

Question put and agreed to.

Senate amendments reads as follows:

Clause 6.

- A. In paragraph (a), delete the words “and (2A)” and substitute the words “, (2A) and (2B)”.

- B. In paragraph (c), in the proposed subsection (2B), delete the words “Subject to section 5B(2), a” and substitute the word “A”.

Clause 7.

- A. In the proposed section 5D(4), delete the words “through his Attorney-at-law”.
- B. In the proposed section 5D(5), delete the words “Constitution.”.” and substitute the words “Constitution.”.
- C. Insert after the proposed section 5D, the following new section:

Powder of Court to order counselling, rehabilitative intervention, et cetera	5E. Notwithstanding any other written law, before discharging, or imposing a sentence on, a person in relation to an offence under this Part, the Court may make an order for— <ul style="list-style-type: none"> (a) counselling; (b) rehabilitative interventions or treatment; or (c) psychological evaluation and resultant assistance.
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Madam Speaker: The Attorney General.

Mr. Al-Rawi: Madam Speaker, thank you. Madam Speaker, for the record I have no conflict of interest in this law at all and I wish to make that abundantly clear because I have no financial or pecuniary interest in any matter that has to deal with this law, and I say that because there were some misleading commentary in the public domain which was really quite unfortunate because it is just entirely untrue. So, Madam Speaker, I press on now to deal with the rationale of these amendments.

Madam Speaker, we are proposing in clauses 6 and 7 an amendment, firstly, to make sure that we remove what was an inadvertent inclusion at the committee stage of this particular law. In clause 6, Madam Speaker, you will note that there was an approach for how we treat with the quantities of cannabis amounting to 30, sorry between 60 and 100 grammes. Madam Speaker, between 60 and 100 grammes it was the intention as expressed on the floor of the Parliament, in the debate and in the committee stage, that you would only be exposed to a ticketable offence if you were under 60 grammes. It was therefore necessary for the bracket 60 to 100 grammes to ensure that you were not put into the route of the ticketable offences. That drives the need for what is set out at paragraph B in reference to clause 6 to delete the words “subject to section 5B(2)”. That section 5B(2) would have been the reference to a ticketable offence.

For clarity if you are in possession of cannabis between 60 to 100 grammes and 10 to 14 grammes, as I recall it of the cannabis resin, you will be subjected firstly to tripping an offence. The offence would be \$75,000. The court will allow for a discretion to consider if you cannot pay such sum as the court may award between zero to \$75,000 because section 68 of the Interpretation Act says any statement of a dollar figure is really the maximum ceiling. It is not that you automatically get that amount. That if you cannot pay it in those circumstances the court may in fact instead give you community service pursuant to that legislation, and that community service we set at a maximum limit of 50 hours, Madam Speaker. It is open to the court to give you a sum less than that.

7.45 p.m.

Madam Speaker, that also allows us to tidy up in paragraph A of 6, the amendment shown, by making sure that we have the correct cross-referencing there.

Madam Speaker, with respect to clause 7 on the amendments as circulated, we received a very good recommendation coming from Sen. Paul Richards which the Government was very happy to agree to. We also received a recommendation coming from the Independent Bench again that where one was going to apply for a discharge that we ought not, in seeking the discharge to the Commissioner of Police under section 50K of the Police Service Act, to confine the person to automatically using an attorney-at-law. We instead say that a person may apply. That allows you the bifurcation of either using an attorney-at-law or applying for yourself. That is at paragraph A of clause 7 as circulated.

In paragraph B effectively, it may look a little confusing there. What we are really doing is just simply removing the inverted commas after the word "Constitution". In paragraph C, by introducing a new 5E, we are taking on board the recommendations made by Sen. Paul Richards that we ought to have the ability of the court to make a recommendation for what we call public health matters:

- “(a) counselling;
- (b) rehabilitative intervention or treatment; or
- (c) psychological evaluation and resultant assistance.”

That, Madam Speaker, was the recommendation which the Government accepted that notwithstanding any written law, before discharging or imposing a sentence, that a person may have the court consider these factors. That is much broader than section 6 of the Dangerous Drugs Act which allows the psychiatry evaluation for 14 days in very limited circumstances.

We considered that this takes us to the methodology which would allow us to properly proceed to implement this law. This is the decriminalization of certain quantities. For the record, whilst possession under 30 grammes may be something that we do not prescribe an offence for, smoking or using is still a criminal offence,

Madam Speaker, and therefore it is very important that people understand that there are still consequences, this law is not in effect yet until it is proclaimed by virtue of the President's proclamation which the Cabinet will obviously have to consider in its considerations.

I beg to move. [*Desk thumping*]

Question proposed.

Dr. Tewarie: Thank you very much, Madam Speaker. I take the opportunity to make a few comments on these amendments and matters directly related to it and raised by the AG in his presentation. I would just like to point out in relation to the issue of the 30 to 60 grammes of cannabis and the 60 to 100 grammes of cannabis that we did raise on this side of the House, in both the debate itself and during the committee stage, that we thought that those particular fines, given the fact that we were taking the route of decriminalization, were too high and that the corresponding opportunity for community service would have been relatively low given the high fines of a few hours of community service and I simply raise that again to say that it is a concern of ours in terms of, in my view, the imbalance of the penalties given the intent of the legislation.

The second issue I would like to raise here is in clause 7 which has to do with the matter of using an attorney-at-law in order to raise or to pursue the matter of pardon and I want to say, again, that we raised that in this House and we pointed to the fact that it would be an issue of cost and that there was no reason that this could not be done by the individual himself or herself. And there is the other issue too, which is, if the intent is to pardon, the person who has become a criminal for use that you are now decriminalizing and you are moving that person out of prison, why could we not automatically create the conditions for pardon? And do we need to really have the process so convoluted so you would have literally these

thousands of people, according to the Attorney General, who would have to go through this process now without a lawyer but originally very cumbersome with a lawyer? So I just want to reinforce the fact that we raised this particular issue and that we felt that if the intent was to decriminalize and therefore, grant an opportunity for getting out of prison and then being pardoned to thousands of people caught up in the legal net, that you know, our position on this is very clear that it should not be made difficult or cumbersome, we should simply make it as easy as possible.

And the third issue I would like to raise here has to do with the clause 7, paragraph C, section 5E, the power of court to order counselling, rehabilitative intervention and what it does here is:

“Notwithstanding any other written law, before discharging, or imposing a sentence on, a person in relation to an offence under this Part, the Court may make an order for -

- (a) counselling;
- (b) rehabilitative intervention or treatment; or
- (c) psychological evaluation and resultant assistance.”

This is a very important clause that is being introduced here, I wish to acknowledge this. When I spoke here on the last occasion when we addressed the Bill, I raised the issue of the one country in the world, Portugal, which had taken what one might call an extreme position of simply decriminalizing all drugs and on the basis of that, recommending almost automatically, once someone was charged for any kind of infringement involving drugs of any kind, that the automatic option for the person would be some form of counselling and rehabilitation because this is critical because once you decriminalize and you have a situation where it is open and free and the space is open to all, you need to have this provision in there, and I

want to say that the Senate did well to make this particular amendment and bring it to the House here.

I want to close on the issue raised by the Attorney General at the beginning of his presentation. That is the issue of conflict of interest, Madam Speaker. The Attorney General declared that he has no conflict of interest and he said so in relation to matters that he said had entered the public realm. And in fact, on Sunday in the newspapers, on three newspapers, you had these issues, two front pages and the end result of that was that the Attorney General denied any knowledge that was in the public's sphere and here he comes and he indicates that there is no conflict of interest. I have no reason to doubt the Attorney General at all but because this has become such a public matter and such a controversial matter, so much so that it was picked up by an editorial today, I want to raise some issues that occurred in the debate which we need to take into account in dealing with this matter.

Now, one of the things that the Attorney General said in the debate was that the Prime Minister originally was dead against decriminalization of marijuana possession and smoking and—[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1), we are dealing specifically with the amendments and I do not see how this relates.

Madam Speaker: Hon. Member for Caroni Central, I have to uphold the objection on the Standing Orders. At this point, all we can really do is speak to the amendments that are proposed.

Dr. Tewarie: Madam Speaker, I accept your ruling. I want to raise this matter too though. Since the Attorney General got up in the House and started his presentation by saying that there is no conflict of interest because he felt the need to do so, do I not have the opportunity, Madam Speaker [*Desk thumping*] to—I

have already said that I have no reason to doubt him but to outline the position which, in the public perception, seems like a conflict of interest and he duly has the opportunity to reply at the end?

Madam Speaker: Hon. Member for Caroni Central, unfortunately no. You said what—and you had some leeway, you were allowed to say that you had no reason to doubt and so, but you cannot enter now or re-enter things that were said in the debate, whether you feel it feeds the issue about conflict of interest or not. Okay?

Dr. Tewarie: Madam Speaker, I wonder if I might say this, which is that the issue of conflict of interest which the Member for San Fernando West raised had to do with the fact that before the Bill was debated in this House—

Madam Speaker: All right, so Member, I have ruled, I am not going to allow that. Okay? So if it is that you are finished your contribution with respect to the amendments, I would ask that you take your seat.

Dr. Tewarie: Well, I would simply like to say, therefore, that although we believe what the—

Madam Speaker: Just one minute. You know, I do not want this to be a to and fro between yourself and the Chair. If you are going on to say something about clauses 6 and 7, I will allow it. If you are going to say anything more about the conflict of interest, I am not going to, so that should guide you in the few minutes you have left.

Dr. Tewarie: Well I have said what I had to say on clause 6. I have said what I had to say on clause 7 about the matter of the pardon and the process involving the attorney. I said what I had to say about the counselling issue which I consider positive, but I feel that the conflict of interest matter is not settled and therefore—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1).

Madam Speaker: Member for Caroni Central, I think we are going around on the

same point and I have ruled. I guess I could even appreciate you may still have, to use an adage, of a “bee in your bonnet” that is unsettled, but I have ruled and therefore, I would either ask you, if it is either on 6 or 7, I will allow it. I will not hear anything else, whether it is settled in the public domain or not, on conflict of interest and I so ruled.

Dr. Tewarie: Okay, well in that case, I would have to say that I cannot take the statement of the AG and I will sit down and this matter will come up again. [*Desk thumping*]

Mr. Al-Rawi: Madam Speaker, I thank you for the opportunity to reply. The Member made five points and I wish to address them. First of all, the concept of the fines being too high and the Opposition supposedly having raised that, Madam Speaker, there are no amendments of the fines being adjusted at all so I do not know what the Member is talking about. I specifically said that section 68 of the Interpretation Act applies. You have the ability in the summary court process to go for a section 71, a reprimand and discharge, you can literally be convicted, reprimanded and discharged with nothing happening to you. So I respectfully do not understand what the Member is talking about.

Secondly, the Member claims to have made that the position that the Opposition said that you ought not to have the attorney-at-law involved in the process of looking for a pardon. Well, apparently the hon. Member did not speak to his own Senate Bench in the Senate because Sen. Sobers expressly, when the Independents asked for removal of attorney-at-law, it was Sen. Thompson-Ahye who raised it, Sen. Sobers said there is no need for that. So apparently the left hand has no clue what the right hand is doing and I will not accept anything that Caroni Central says about that because it is clear that that is not the position volunteered in the Senate and we are debating the Senate amendments. The UNC,

in the Senate, said leave attorney-at-law so I cannot understand that the Member is coming now to try and claim paternity to something that the Independent Bench raised and his own Senators, [*Desk thumping and crosstalk*] Sen. Sobers in particular, asked to be maintained. [*Crosstalk*] Just nonsense, nonsense.

Madam Speaker, the hon. Member clearly does not recall—[*Crosstalk*]
 Madam Speaker, could Naparima stop babbling? [*Crosstalk*]

Madam Speaker: Member for Naparima. Attorney General, I think with your span of lexicon, you can find a better word. And I also want to say this, with your experience, I am sure you could rise above that and let us continue. Okay? Thank you.

Mr. Al-Rawi: Sure. Thank you, Madam Speaker. Perhaps the Member for Caroni Central just did not pay attention to the entire debate that we had on this Bill. There was no way for us in the face of the Privy Council ruling in Lendore, I said that “ah 100 times, ah 100 times”. The Member comes across as studious, as deliberate, as engaging in research, but the Member just would not read the *Hansard* or better yet, recall the fact by way of paying actual attention that the Privy Council in the Lendore decision said you cannot treat with people amass. What am I to do? Ignore the Privy Council and listen to Caroni Central? Where is the research that the Member comes across as actually doing in this complaining sort of tone and deliberate measure? Oh, for heaven’s sake—

[*Member for Caroni Central stands*]

Listen to the debate, hon. Member, because the Privy Council—

Mrs. Robinson-Regis: “A-a, what Standing Order?”

Dr. Tewarie: Madam Speaker, on a point of order.

Madam Speaker: Member for Caroni Central.

Dr. Tewarie: Is the Member allowed—[*Interruption and crosstalk*]

Mr. Al-Rawi: No, no, no, I am not giving way. If it is a Standing Order, I will listen to that. Is there a Standing Order?

Madam Speaker: All three of us cannot stand. Okay, so Member for Caroni Central, if you want to raise a point of order on the Standing Orders, I will let you.

Dr. Tewarie: Can I use 48(6)?

Mrs. Robinson-Regis: No, you cannot.

Madam Speaker: I would like all the other chairmen in here to kindly just observe Standing Order 53. Okay. So Member for Caroni Central, I have to overrule that Standing Order. Okay?

Mr. Al-Rawi: Thank you, Madam Speaker. It is pseudo intellectual misinformation. [*Continuous interruption and crosstalk*]

Madam Speaker: You know, Members, Members, I think we just got some very prudent advice “do not mind in his sedentary position” from the Member for Oropouche East and having regard to the way things happen here, we will all shortly exchange certain type of greetings so I would ask us all to sort of prepare the mood for those very sincere greetings which we are about to exchange. Okay? Attorney General, in the season of goodwill, please. Thank you.

Mr. Al-Rawi: Thank you, Madam Speaker. The Privy Council simply says we cannot accept the recommendations coming from the Member for Caroni Central and I prefer to listen to the Privy Council rather than the Member’s exhortations. I must be guided by that.

Madam Speaker, the Member, again, sought to somehow grasp paternity of the psychological or public health aspect which Sen. Richards very commendable raised. Whilst the Government answered that there would be obviously ancillary services volunteered along this, we did not capture that in the prescription of legislation. This law was materially improved by Sen. Richards’ approach to this.

The Opposition certainly made no recommendations for amendments in writing either in the—no, Sen. Mark did in the Senate, but not here in this House. We recognized that there was extreme merit in the amendment coming from Sen. Richards, it has materially improved the legislation.

On the last point being the fifth point that the Member raised, again I reiterate, it is a fancy to believe that there is any pecuniary gain that I could have in debating the dangerous drugs or the cannabis control legislation. For the record, I again state, I have no interest, pecuniary or otherwise. In fact, Madam Speaker, you may wish to know and I would say this. My wife has a very large family and I cannot claim to know what they do.

Dr. Tewarie: I have to object. [*Crosstalk*]

Madam Speaker: You know, as I said, you know, the season of goodwill has lots of spirits attendant on it and I wish we would take some of the higher spirits. Member for Naparima, I understand though you may have a particular aspiration but not in this Eleventh Parliament. Okay? So Attorney General, I am not allowing anything else on the conflict of interest. Thank you.

Mr. Al-Rawi: Thank you. So, Madam Speaker, I am very pleased to see work come from the Senate which can do what all others pretended they would do: “coulda, shoulda, woulda”. Ten years and three months in the seat of power the Opposition stood as a government “coulda, woulda, shoulda”, none of them had the courage to do what our Prime Minister did, [*Desk thumping*] which is to relieve the system and the weight and burden that decriminalization—[*Crosstalk and interruption*]

Madam Speaker: I am speaking to everyone here. There is a particular Watchword that we should all practice, that is tolerance, so all of us should rise above provocation. It is not a defence in here. Attorney General.

Dr. Gopeesingh: I have to tolerate you. [*Laughter and crosstalk*] No, Madam Speaker, I meant nothing, I meant nothing. “Yuh know I have love in meh heart.”
 [*Laughter and crosstalk*]

Madam Speaker: Attorney General.

Mr. Al-Rawi: Madam Speaker, I, too, have love in my heart even for some people opposite at times. But, Madam Speaker, I think that this is good law. I think it is way passed its time. I think that our country would be better off, our criminal justice system, the many victims of this. I am not an advocate of smoking cannabis or using it in any form. I think that there are some significant factors that parents, in particular, need to pay attention to, schools, professions. I think that this is something that is definitely in need of legislating to provide relief. One day more in incarceration for small quantities of cannabis, Madam Speaker, is one day too many, one day too much.

Madam Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

**MISCELLANEOUS PROVISIONS (LAW ENFORCEMENT OFFICERS)
 BILL, 2019**

Senate Amendments

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the Senate amendments to the Miscellaneous Provisions (Law Enforcement Officers) Bill, 2019 listed in Appendix II be now considered.

Question proposed.

Question put and agreed to.

Senate amendments read as follows:

Clause 3.

- A. In subclause (a), in the proposed definition of “prohibited article”, at paragraph (a), delete the word “paper”.
- B. In subclause (d), in the proposed new section 8A (1) (e), insert the words “favour or” after the word “any” where it appears the third time.
- C. In subclause (d), in the proposed new section 8B -
 - 1. In the proposed subsection (1)(a), insert the words “or a video-recording” after the word “sound-recording”.
 - 2. In the proposed subsection (3),
 - (i) In paragraph (f)(v), delete the word “and”;
 - (ii) In paragraph (g), delete the word “.” and insert the words “; and”; and
 - (iii) Insert after paragraph (g) the following new paragraph:
 “(h) “video-recording” means a video-recording with or without sound”.
- D. In the proposed new section 8C insert the words “, favour” after the word “perquisite”.
- E. In subclause (f), in the proposed new section 11 -
 - 1. After the proposed subsection (2), insert the following new subsection:
 “(2A) A person shall not intentionally take any retaliatory action against –

(a) any person aiding or assisting a prison officer in the execution of his duty;

(b) the relatives, friends, associates or property of the person mentioned in paragraph (a),

on account of the person aiding or assisting a prison officer in the execution of his duty.”

2. In the proposed subsection (3) –

- (a) In the chapeau, delete the words “subsection (2), “relative” means, in relation to a prison officer” and substitute the words “subsections (2) or 2(A), “relative” means, in relation to a prison officer or a person aiding or assisting that prison officer in the execution of his duty, as the case may be”; and
- (b) In the proposed paragraph (f), after the words “prison officer” insert the words “or the person who aided or assisted the prison officer in the execution of his duty”.

Clause 4.

In subclause (i), in the proposed new section 59 -

1. After the proposed subsection (2), insert the following new subsection:

“(2A) A person shall not intentionally take any retaliatory action against –

- (a) any person aiding or assisting a police officer in the execution of his duty;
- (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),

on account of the person aiding or assisting a police officer in the execution of his duty.”

2. In the proposed subsection (3) –

(a) In the chapeau, delete the words “subsection (2), “relative” means, in relation to a police officer” and substitute the words “subsections (2) or 2(A), “relative” means, in relation to a police officer or a person aiding or assisting that police officer in the execution of his duty, as the case may be”; and

(b) In the proposed paragraph (f), after the words “police officer” insert the words “or the person who aided or assisted the police officer in the execution of his duty”.

3. In the proposed section 61A, after the word “perquisite” insert the words “, favour”.

Clause 5.

In subclause (b), in the proposed new section 41B -

1. After the proposed subsection (2), insert the following new subsection:

“(2A) A person shall not intentionally take any retaliatory action against –

(a) any person aiding or assisting an immigration officer in the execution of his duty;

(b) the relatives, friends, associates or property of the person mentioned in paragraph (a),

on account of the person aiding or assisting an immigration officer in the execution of his duty.”

2. In the proposed subsection (3) –

- (a) In the chapeau, delete the words “subsection (2), “relative” means, in relation to an immigration officer” and substitute the words “subsections (2) or 2(A), “relative” means, in relation to an immigration officer or a person aiding or assisting that immigration officer in the execution of his duty, as the case may be”; and
- (b) In the proposed paragraph (f), after the words “immigration officer” insert the words “or the person who aided or assisted the immigration officer in the execution of his duty”.

Clause 6.

- A. In subclause (e), in the proposed new section 51B –
 - 1. After the proposed subsection (2), insert the following new subsection:
 - “(2A) A person shall not intentionally take any retaliatory action against –
 - (a) any person aiding or assisting a fire officer in the execution of his duty;
 - (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),
 on account of the person aiding or assisting a fire officer in the execution of his duty.”
 - 2. In the proposed subsection (3) –
 - (a) In the chapeau, delete the words “subsection (2), “relative” means, in relation to a fire officer” and substitute the word “subsections (2) or 2(A), “relative” means, in relation to a fire

officer or a person aiding or assisting that fire officer in the execution of his duty, as the case may be”; and

- (b) In the proposed paragraph (f), after the words “fire officer” insert the words “or the person who aided or assisted the fire officer in the execution of his duty”.

- B. In subclause (h), in the chapeau of the proposed section 54A, insert the words “, favour” after the word “perquisite”.

Clause 7.

In subclause (b) -

1. After the proposed section 5A (2), insert the following new subsection:

“(2A) A person shall not intentionally take any retaliatory action against –

- (a) any person aiding or assisting an Officer in the execution of his duty;
- (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),

on account of the person aiding or assisting an Officer in the execution of his duty.”

2. In the proposed section 5A (3) –

- (a) In the chapeau, delete the words “subsection (2), “relative” means, in relation to an Officer” and substitute the words “subsections (2) or 2(A), “relative” means, in relation to an Officer or a person aiding or assisting that Officer in the execution of his duty, as the case may be”; and

- (b) In the proposed paragraph (f), after the words “the Officer” insert the words “or the person who aided or assisted the Officer in the execution of his duty”.
3. In subclause (f), delete the chapeau and substitute the following:
- “(f) in section 216, by:
- (i) inserting the words “, favour” after the word “perquisite” wherever it appears; and
- (ii) deleting all the words after the words “or reward,” in the second place where it occurs and substituting the following words: “or any officer who accepts any such fee, perquisite, favour or reward”; and”
4. Delete subclause (g) and substitute the following new subclause:
- “(g) in section 217, by:
- (i) deleting the word “recompense” wherever it appears and substituting the words “recompense, favour”; and
- deleting the words “two hundred thousand dollars” wherever they occur and substituting in each place the words “seven hundred and fifty thousand dollars”.

New Clause 8.

Insert after clause 7, the following new clause:

“Chap. 15:03

amended 8. The Special Reserve Police Act is amended –

- (a) in section 14(2) by deleting the words “three hundred dollars or to imprisonment for three months” and substituting the words “one hundred

and fifty thousand dollars and to imprisonment for five years”;

(b) in section 15(2) by deleting the words “one hundred and fifty dollars or to imprisonment for two months” and substituting the words “fifty thousand dollars and to imprisonment for three years”;

(c) by inserting after section 18, the following new section:

“Assaults and

retaliatory action

18A. (1) A person who –

- (a) assaults, threatens, obstructs or resists; or
- (b) aids or incites any other person to assault, threaten, obstruct or resist,

a member of the Special Reserve Police in the execution of his duty, or any person aiding or assisting such a member in the execution of his duty, with intent to impede, intimidate or retaliate against such a member while engaged in the execution of his duty, commits an offence.

(2) A person shall not intentionally take any retaliatory action against –

- (a) a member of the Special Reserve Police;
- (b) the relatives, friends, associates or property of a member of the Special Reserve Police, on account of that member’s execution of his duties.

(3) A person shall not intentionally take any retaliatory action against –

- (a) any person aiding or assisting a member of the Special Reserve Police in the execution of his duty;
 - (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),
on account of the person aiding or assisting a member of the Special Reserve Police in the execution of his duty.
- (4) For the purpose of subsections (2) and (3), “relative” means, in relation to a member of the Special Reserve Police or a person aiding or assisting that member in the execution of his duty, as the case may be –
- (a) his parent or step-parent;
 - (b) his spouse, cohabitant or fiancé;
 - (c) his child, step-child or other dependant;
 - (d) his brother, sister, step-brother or step-sister;
 - (e) his grandparent;
 - (f) any other person whose care and support is the responsibility of the member of the Special Reserve Police or the person who aided or assisted the member in the execution of his duty.
- (5) A person who commits an offence under this section is liable –
- (a) on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for ten years; or
 - (b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for fifteen years.”;
- (d) in section 20(1) by deleting the words “seven hundred and fifty dollars or to imprisonment for three months” and substituting the

words “one hundred and fifty thousand dollars and to imprisonment for five years”; and

- (e) in section 20(2) by deleting the words “seven hundred and fifty dollars or to imprisonment for three months” and substituting the words “one hundred and fifty thousand dollars and to imprisonment for five years”.”.

Long title amended.

The long title is amended by inserting after the words “Chap. 15:01,” the words “the Special Reserve Police Act, Chap. 15:03,”

Mr. Al-Rawi: Thank you, Madam Speaker. This appears to be a considerable amount of amendments but in policy, it really is not, and if I may just explain? There are effectively three things that we are doing in these amendments. One, we are including the concept of putting the special reserve police into the protection for law enforcement officers and I will explain why in a moment. Two, we are proposing to bring into protection in the concept of retaliation the people who are in the category of persons who assist law enforcement officers and the third thing that we do is we simply remove the word “paper” from prohibited articles. So let us go in the reverse order.

Sen. Chote felt that it would be foolish, quite simply put, to include paper as a prohibited article in the definition of “prohibited articles” in the view of the encouragement against recidivism and moving to rehabilitation, et cetera. We felt that there was good intent in that and that Sen. Chote’s argument that there could be abuse to persons who are incarcerated could prevail so we accepted that amendment which is why you will see that the first amendment to clause 3 is to remove the word “paper”.

Secondly, Madam Speaker, Sen. Sobers on the Opposition Bench made a very good recommendation that we ought to include the concept of video recording and sound recording because we had the used the term “images” and out of an effort for clarity, we thought that Sen. Sobers made a very good point and that we should include the reference to video recording or sounding recording there.

Sen. Chote made the recommendation that “favour” ought to be included in the concept of bribes or perquisite. The recommendation coming was that—and this was the wide contemplation that favour encapsulated where people actually went outside the boundaries of what traditional payment and bribe, et cetera, was. The Senate felt that that actually included people providing sexual favours, et cetera. That was literally the concept that was discussed in the Senate.

Madam Speaker, the concept of taking retaliatory action, we have had provided in subclause (1A), the concept that anybody who takes retaliatory—we have provided that a police officer could be assisted, prisons officer, fire officer, customs officer, immigration officer, they could all be assisted by someone in the course of their duty and we felt that it would make sense for the person who is aiding law enforcement to also have the protection against retaliation by including protection for their family members. Firstly, because they could be identified as specific individuals. Secondly, because we had criminalized action against the law enforcement officer and the person who is assisting. What was not contemplated by this House was protecting the relatives of persons who assisted. Madam Speaker, that would take care of all of clause 3.

Clause 4, clause 5, clause 6, those all treat, Madam Speaker, with effectively cutting and pasting the retaliatory protection, retaliatory action protection in the context of the immigration, customs, fire officers in addition to law enforcement

officers in traditional Trinidad and Tobago Police Service. We wanted to capture all, hence the cutting and pasting of the proposed amendments in clause 3 into clause 4 into clause 5 into clause 6, again, borrowing the concept of favour as a prohibition adding it on to perquisites and fees and bribes, et cetera.

8.15 p.m.

Madam Speaker, new clause 8 is the addition of the category of police officers in the Special Reserve Police. Whilst there are many types of law enforcement officers, you have the Trinidad and Tobago Police Service, you have the Supplemental Police Act, which includes estate constables and effectively reserve constables, but you also have the supplemental, the Special Reserve Police Act. The Special Reserve Police Act, we had intended to cause a stand-alone amendment for.

We want, Madam Speaker, and we are in the course of working upon it, to introduce the professionalization of the Trinidad and Tobago Police Service, by including auditors, accountants and lawyers in a different category of rank in the Special Reserve Police Act. So what we did in these particular amendments, is we took the opportunity to carve out the Special Reserve Police, add them into the law enforcement protection, so that they could be protected against retaliation, bribery. We could raise the penalties and provisions where they had acted improperly in similar circumstances to that which we did for the Trinidad and Tobago Police, for instance, heavily criminalizing the concept of tipping-off and other improper actions where they could equally occur in the Special Reserve Police.

So, Madam Speaker, that is effectively the summary of the rationale for the Senate amendments coming here across the provisions that I have just explained in each of the clauses that we amend and in the insertion of the new clause 8. I thank

you, Madam Speaker, and beg to move. [*Desk thumping*]

Madam Speaker: Leader of the House.

Mrs. Robinson-Regis: We are proceeding, Ma'am.

Mr. Al-Rawi: Madam Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Madam Speaker: Okay, so I now propose the question.

Question proposed.

Madam Speaker: Whip.

Mr. Lee: Thank you, Madam Speaker. Madam Speaker, I rise not to contribute in these amendments, but the Opposition was not given notice that they were going to debate this Motion here tonight, Madam Speaker. Madam Speaker, we were taken by surprise and it is again, not fair to the Opposition, not given proper notice, or no notice at all to debate these amendments. So we are not prepared to debate these amendments here today. In the spirit of Christmas— [*Laughter*] I am surprised that this is being done to us, Madam Speaker, and with those few words, we cannot debate this, the Opposition is not prepared to debate this.

Mrs. Robinson-Regis: Thank you very much, Madam Speaker. Madam Speaker, these amendments have been on the Order Paper for quite some time, approximately two weeks. We did say, when I asked for the adjournment, I did indicate that we would be doing Motions two and one in that order. My friend is saying that he was not aware, but these amendments have been on the Order Paper for at least two weeks. So, they were given notice by them being on the Order Paper for two weeks. And in addition to that, we did say, when I adjourned the debate, that we would be proceeding with Motions 2 and 1. Madam Speaker, and these are amendments that have come from the Senate, so, we are of the firm view

that they can be proceeded with today.

Madam Speaker: Attorney General, please proceed.

Mr. Al-Rawi: Thank you Madam Speaker. Madam Speaker, I of course concur with everything. Madam Speaker, I would just like to reiterate; these are very simple amendments. Despite the length of time to set it out in paper, it is effectively the same formula being cutting and paste it. Taking out the word “paper”, we are adding in the concepts of retaliatory action against relatives, for persons who assist law enforcement officers. You separated TTPS, immigration, customs, fire and prisons. Madam Speaker, the hon. Member for Pointe-a-Pierre was correct in one thing, this is the spirit of Christmas. It is reputed, certainly when I was a child growing up, that you would either be on the naughty or nice list. When you were on the naughty list, Madam Speaker, you received a lump of coal, according to hinterlands. In Trinidad and Tobago, you might get nothing.

You were on that naughty list if you failed to do your homework, you were a little bit lazy; you just did not do your best. I pray that all my colleagues would be on the nice list this year and will take the opportunity to do a little bit more work. Do a little bit of reading in the two weeks’ time they had to prepare for this debate, get into the realm of wanting to support law enforcement officers. Why would you not want to give law enforcement officers protection against retaliation, against their family members for Christmas? Why would you not want to give prison officers protection? Why would you not want to give customs officers, immigration officers, fire officers, Madam Speaker? Those are things to put you on the naughty list, Madam Speaker.

Madam Speaker, this Government is pleased to protect officers. We would like to proclaim and assent to this law as in quick fashion. We want to make sure

we protect law enforcement officers in this country. We apologize that the Opposition cannot read for the last two weeks, and I beg to move. [*Desk thumping*]
Question put and agreed to.

ADJOURNMENT

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

Thank you, Madam Speaker. Madam Speaker, I beg to move that the House do now adjourn to a date to be fixed.

Christmas Greetings

Madam Speaker: Hon. Members, as you all know, we are in the midst of the Christmas Season, a festive and joyous time in Trinidad and Tobago. So before I put the question on the adjournment of the House, I invite Members to bring greetings on the occasion of Christmas.

The Prime Minister (Hon. Dr. Keith Rowley): [*Desk thumping*] Thank you very much, Madam Speaker. Madam Speaker, once again the opportunity arises for us to get into a festive mood for a very good purpose, the season of hope and goodwill, notwithstanding the crosstalk, notwithstanding the objections, notwithstanding the stresses and strains that we have been through during the year. Christmas is a time that brings joy to the hearts of all of us here in Trinidad and Tobago, because we are a community that share each other's persuasions, at Easter, at Divali, at Eid, and now, Christmas.

Madam Speaker, we would like to join all those members of the Christian community and with the national community of Trinidad and Tobago, in thanking all those who assisted us through the year, be it parents, colleagues, coworkers, whoever. Because at the end of the year, we can look at back and say, "We have made another year in a difficult period." And many of us have our individual

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stories. But there is no story like the story of Christmas, where the birth of a child brought hope to an empire and for thousands of years, continue to bring hope to believers and non-believers alike.

So, Madam Speaker, this being the last occasion on which we will, in this building, have the opportunity to conduct business of the Lower House of the Parliament of Trinidad and Tobago, I want to take the opportunity, in the season of Christmas, a most opportune time, to thank all those who assisted us in conducting our duties as we have been able to do during 2019, and the years ahead. We have been here for quite some time. It is been a place that has challenged us in ways, but it has provided the service that we needed.

I want to thank the staff of Parliament who have gone beyond—[*Desk thumping*]*—*the call of duty on so many occasions to have made our stay here comfortable and successful. And I want to thank the security services who stand with us here for hours, day into night here, to ensure that we are protected from those who think that we should not be so protected, even as we conduct the business in their benefit. I want to thank all those colleagues of mine and ours, both Members of this Chamber and other colleagues, who have taken part in the processes of administration of the country.

And we must—history has been written as we moved into this building temporarily, not knowing how long that state would be, but to be in a good spirit now, Madam Speaker, because we are, like Christmas, on our way to another place, to a better place. They say wise men came from the East. We hope that wise men and women will move from the south to the north to a building, which we have worked on quite assiduously in the recent months and is prepared, and I trust, Madam Speaker, that you would be waiting for us in the New Year.

So, with that sense of eagerness and joy in our hearts for the Christmas and

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for the coming of the Red House, where we would be much more at home, the Red House being the national place of parley, the place of Parliament. I do not want to ask any of my colleagues to leave anything behind. I quite like the spirit of cut and thrust in the Parliament, as long as we understand that we are here to do the people's business. And I am sure that the environment to which we will go will contribute in no small measure to us being better parliamentarians for whatever period we might be required to serve the public in this way.

Madam Speaker, we on this side, and I am sure I can speak for my colleagues on the other side, want to thank you for the exemplary way that you have conducted the business of the Parliament. [*Desk thumping*]

I also want to thank my colleague, the Member of Parliament for Tunapuna who very ably stood in for you on many occasions. [*Desk thumping*] Because for this place to work, all of us had to have done something, and I trust that we would be proud, leaving here this evening, that for the period that we were in this place that we have steered Trinidad and Tobago to calmer waters, even though there is a lot more sea ahead of us.

So Madam Speaker, I want to wish you and your family a Merry Christmas and we look forward to the bright and prosperous years ahead. I want to thank all my colleagues on this side and on the other side, and those of the other place, and wish them good health, happiness, Merry Christmas and bright and prosperous years ahead. [*Desk thumping*]

Mr. David Lee (*Pointe-a-Pierre*): Thank you Madam Speaker. Madam Speaker, as I rise this evening to offer warm and sincere Christmas greetings on behalf of the Opposition Leader and the Opposition Members of Parliament. Even though we may be nine days away from this special day, many families are hard at work undertaking preparations for this very special, holy and sacred observance.

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As I offer these greetings, I urge our citizens not to be lost in the hustle, glitter and frantic pace of these celebrations, but rather opt to carry out their acts with love as well as enlightened by the many significant lessons which this special season has to offer us, no matter our religious persuasion. One of Christmas' special lessons, which we as a person often ignore or reject at times, is the power of belief. The genesis of the Christmas story begins with the Angel Gabriel announcing to Mary:

“Do not be afraid Mary, you have found favour with God. You will be with child and give birth to a son and you are to give him the name Jesus.”

At that point, surprised and even shocked, all Mary could do was believe and have faith in the purpose which God had placed upon her.

As the Christmas story goes, as we see yet another scenario appears, where the power of belief and faith becomes eminent when the Angel Gabriel then appeared to Joseph. The Angel told Joseph:

“Joseph son of David, do not be afraid to take Mary home as your wife, because what is conceived in her is from the Holy Spirit. She will give birth to a son, and you will give him the name Jesus, because he will save his people from their sins.”

Joseph never once questioned the will of God, but had belief in the path that was being chartered out for Mary and himself, regardless of how unbelievable it may have appeared at times.

We must all agree that Christmas is about goodwill to all. Yes, it is about goodness, and yes, it is about doing good for others, but Christmas is also about understanding the power of faith and belief. It was faith and belief in God's plan, which kept Mary and Joseph going, despite the many hindrances. It was their faith in knowing that all will be well, which led them to the manger, even though all

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inns were filled. It was belief which allowed Joseph to lead their escape from the wrath of Herod. Therefore, as we celebrate Christmas and move forward with our lives, we are called truly to understand the full capacity of belief and faith. This Christmas, one of the greatest gifts which we can offer each other as a people is the ability to rekindle and inspire each other to believe in each other's life purpose.

In today's society, especially here in our beautiful twin island Republic, we have some of the most talented, gifted, as well as skilled individuals within every walk, genre and segment of life.

We have significant talent in academia, art, music, sport, culture, spoken word, and human capability. But as a country we must ask ourselves: Are they realizing their true potential? At times we can be so judgmental. We can be so condescending and dismissive of the talents of others, not realizing the positive impact it can have on our society if properly utilized. It is time we get others to believe in themselves. It is time we get others to believe in their talents and their ability to use it for national development, for human development, as well as a societal enhancement. It is time we respect and help nurture each other's talent.

This Christmas season, as a people, we must try to ensure that we get others to believe in themselves, not only by words but with our actions. In essence, this Christmas, when we look at giving goodwill to each other, let us base that goodwill in telling someone, "You can do it." Let us base that goodwill in actually helping someone achieve their dreams. This is why this Christmas, our wish for the people of this nation is not only goodwill, it is not only peace, but it is the hope that hand in hand we can believe in each other. The Opposition's Christmas wish for our nation is that each and every citizen would be treated in a way that they would be able to not only achieve their true potential, but being able to work towards being equal partners in national development.

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Madam Speaker, on behalf of the Opposition Leader and colleagues, we would like to wish you and your family a Merry Christmas. We would like to thank all parliamentary staff and ancillary personnel, like the security and the servers who serve us our lunches and teas. Madam Speaker, we say thank you to them. We also wish them and their families a joyful Merry Christmas and lots of blessings in 2020.

As I close, let us love, respect and approach each other with a genuine outlook of nation-building. We can differ on the path, but let us agree on the destination in building a better Trinidad and Tobago. On behalf of the Opposition, I wish you a Merry Christmas and a bright and prosperous 2020. [*Desk thumping*]

Madam Speaker: Hon. Members, I wish to join Members in offering warm Christmas greetings to our Christian community and the nation as a whole on the occasion of Christmas.

For Christians and non-Christians alike, Christmas is a sentimental season full of hope, charity, family, good food, sorrel and parang. It is a time of year where there exists an all-embracing mood of goodwill and merriment; attitudes which would surely benefit society greatly if observed and practised consistently throughout the year rather than seasonally.

For the Christian community, Christmas is a celebration of significant import. It is the celebration of the birth of Jesus Christ, God made man. The birth of Jesus is considered the greatest gift that God has given to man in the model by which man is expected to live.

Regardless of one's circumstance or religious belief, let the message of Christmas be a reminder that the greatest gifts are not tangible or time-specific. Love, the joy of contentment, peace, tolerance, patience, empathy, compassion, kindness and goodness are virtues which are valueless and timeless.

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On behalf of the Parliament of Trinidad and Tobago, may I take this opportunity to wish all Members and the staff of Parliament and all of Trinidad and Tobago a very Merry Christmas and a bright and prosperous New Year 2020.
[*Desk thumping*]

PARLIAMENT CHANNEL AWARD
(Inaugural Telecommunications and
Broadcasting Industry Award for Local Content)

Madam Speaker: Members, I also wish to crave your indulgence a little while longer just to bring a message to you all concerning the Parliament Channel award. It is with great pride that I inform you that the Parliament of Trinidad and Tobago recently won the inaugural Telecommunications and Broadcasting Industry Award for Local Content. [*Desk thumping*]

The award was given by the Telecommunications Authority of Trinidad and Tobago to mark its 15th anniversary, and celebrates the broadcaster which has shown how its local content of all genre and programme-type help to transform the national media scape and promote the local creative industry.

As you know, the Parliament Channel began broadcasting in 2006, and still remains the only television station in the region that is run by a Parliament or a department of Government. The Parliament Channel operates on a 24-hour schedule, broadcasting not just Sittings of the House and Senate and committee meetings, but over 450 productions on a wide range of topics dealing with our dynamic political landscape. These programmes are also available on demand on the YouTube Channel, Parliament of Trinidad and Tobago. The staff of the Parliament Channel go about their business quietly and with no fanfare, achieving success and giving Trinidad and Tobago a product which is second to none. [*Desk thumping*]

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It is no surprise that we have been winning accolades since 2015, at the Caribbean Broadcasting Awards, with *The West Indies at War* and *I Count*, and *The Vote at 70* in 2017. Thanks and congratulations to the team behind the Parliament Channel, led by Corporate Communications Director, Colleen Holder and Production Coordinator, Candice Dubarry. Join me in commending them for their good work. Congratulations. [*Desk thumping*].

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.37p.m.