

SENATE*Tuesday, April 17, 2018*

The Senate met at 10.00 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Franklin Khan, who is out of the country and to Sen. Gerald Ramdeen who is ill.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MS. ALISHA ROMANO

WHEREAS Senator Franklin Khan is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:
NOW, THEREFORE, I, Paula-Mae Weekes, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALISHA

UNREVISED

ROMANO, to be temporarily a member of the Senate, with effect from the 17th of April, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Franklin Khan.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 13th day of April, 2018."

OATH OF ALLEGIANCE

Sen. Alisha Romano took and subscribed the Oath of Allegiance as required by law.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I am awaiting another Instrument of Appointment and when I receive it, with your leave, we will revert to this Item on the Order Paper.

NATIONAL SECURITY JOINT SELECT COMMITTEE

(REFERRAL OF PAPER)

Madam President: Hon. Senators, I have received the following correspondence from the Speaker of the House of Representatives.

April 16, 2018.

"Dear President of the Senate,

Referral of Paper to the Joint Select Committee on National
Security

At a sitting held on Monday April 09, 2018, the House of Representatives agreed that the following paper be referred to the Joint Select Committee on National Security for consideration and report by July 31, 2018.

- Statement of the Attorney General related to the activities in Trinidad and Tobago of Cambridge Analytica, Aggregate IQ (AIQ) and the Strategic Communication Laboratories (SCL) Group and their affiliate companies, together with a compilation of relevant Documentation and Materials.

I respectfully request that the Senate be informed of the above at the earliest convenience please.

Respectfully,

Hon. Bridgid Mary Annisette-George

Speaker”

URGENT QUESTIONS

Guardia Nacional

(Failure to Return Local Fishermen)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of National Security: In light of the failure of the Guardia Nacional to return the three local fishermen to Trinidad and Tobago as promised on April 15, 2018, can the Minister indicate why to date this has not been done?

Madam President: Minister of National Security, you have two minutes. [*Desk thumping*]

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Madam President, allow me to put on the record that Mr. Dayne-Marc Chin Slick, Head of Chancery, Consul of the Trinidad and Tobago Embassy in Caracas, has been, and continues to be in contact with the Venezuelan officials in Tucupita. On the 11th we have already stated in public that the three nationals of Trinidad and Tobago were released from the Venezuelan court with no award of punishment as such, and they were released to travel, to

return to Trinidad and Tobago on their own volition. Madam President, arrangements were made with Mr. Michael Sankar, the brother-in-law of one of the Trinidad nationals, who, in fact—where the nationals were staying at—to bring them to Soldado Rock with an arrangement with the Trinidad and Tobago Coast Guard on Sunday. However, at the last minute, while the coast guard was in fact in position, or onto position, the trip was cancelled on behalf of the Venezuelan national by Mr. Sankar.

Madam President, the Trinidad and Tobago Embassy in Venezuela continues to liaise with the Tucupita nationals—Venezuelan nationals. To that end they have made arrangements yesterday for what is required, a Certificate of Abandonment which is issued by the Venezuelan immigration authorities when you are leaving Venezuela. They made arrangements at the office for the three nationals to receive that Certificate of Abandonment. Madam President, the office remained open almost an hour after the time and at that time the nationals did not appear to receive that Certificate of Abandonment.

The Embassy of Trinidad and Tobago continues to liaise with Mr. Sankar who is a point of contact in Venezuela, as the nationals are, in fact, staying at his house. They are making contact with Mr. Sankar to, again, get them to the office which they have arranged with the Venezuelan nationals, to get that Certificate of Abandonment. Mr. Sankar has indicated that he will, in fact, return the nationals to Trinidad and Tobago tomorrow, or Wednesday the 18th of April, 2018. We are continuing to liaise with Mr. Sankar and we continue to assist. The coast guard is standing by to assist where and when necessary, Madam President.

Madam President: Sen. Mark.

Sen. Mark: Thank you, Madam President. The hon. Minister indicated that the trip back to Port of Spain, is it on the 11th, Minister?

Hon. Maj. Gen. E. Dillon: Not Port of Spain, the Soldado Rock.

Sen. Mark: Soldado Rock—was cancelled on the day by Mr. Sankar. Could you explain to us whether you are aware of the reasons given by Mr. Sankar to the Trinidad and Tobago Coast Guard or to the Government, for this particular cancellation?

Madam President: Minister?

Hon. Maj. Gen. E. Dillon: Madam President, I am not aware of the reason why Mr. Sankar had cancelled his trip but I know that the coast guard was en route on the Soldado Rock and we got word that they would not be making the rendezvous at that appointed time. And, in fact, at that point is where he indicated that he will be returning the nationals on Wednesday the 18th. And subsequent to that, we made arrangements to get the Certificate of Abandonment.

Madam President: Sen. Mark?

Sen. Mark: In light of the fact that these nationals have been literally stranded in Venezuela for several days now, having been released, could the hon. Minister give this Senate any assurance or guarantee that these nationals will be released, you know, within the shortest possible timeframe? Could you provide us with any guarantees on that?

Hon. Maj. Gen. E. Dillon: Madam President, the question of release does not come into point. The men were released from since the 11th by the court. They are free to roam Tucupita. As a matter of fact, they are staying with relatives in Tucupita. So the question really does not come into contention now. The question is when they are ready. They are free to come whenever they want, quite frankly, and they have determined that they will be returning with Mr. Sankar on Wednesday the 18th. The Trinidad and Tobago Coast Guard—the Mission in Venezuela continues to liaise with the authorities. The Trinidad and Tobago Coast

Guard remains committed to ensure the safe passage. Once they have committed to that tomorrow date, the Trinidad and Tobago Coast Guard stand by to assist where possible, for their release.

Madam President: Next question. Sen. Mark?

**Fake Pharmaceutical Products
(Measures to Safeguard Public)**

Sen. Wade Mark: To the hon. Minister of Health: Can the Minister state what measures are being implemented to safeguard the public from the purchase and consumption of substandard and fake pharmaceutical products?

Madam President: Minister of Health. [*Desk thumping*]

The Minister of Health (Hon. Terrence Deyalsingh): [*Desk thumping*] Thank you very much, Madam President. Madam President, the question is not properly phrased. I will tell you what we have done, not what we are going to do. In May 2017, which is a year ago, I instructed the Chemistry Food and Drugs Department to step up their surveillance on unregistered drugs. To date, that has resulted in files of approximately five pharmacies, give or take one; files which have been prepared by the legal department of the Ministry of Health and have already been forwarded as of 2017, to the authorities that will take an interest in these files and do the necessary prosecution.

In addition, the Ministry of Health, via the Chemistry Food and Drugs Department, has already, in 2017, stepped up our surveillance at ports of entry. So that is what we have done. May I tell the national community that this is a significant improvement over the years 2010 to 2015, where not one pharmacy was brought to book. To date, in one year, we have brought to book at least about three to five pharmacies.

May I also say that there is a lot of personal responsibility on the part of pharmacy owners on this issue, because without demand generated at the level of pharmacies, there can be no supply. All pharmacists in their training take an ethics course, and it is inconceivable that pharmacists, knowing that they are purchasing unregistered drugs and drugs from non-traditional suppliers, should examine their conscience also. So this is a national issue. We have done much more in one year than any past administration and we will continue to investigate pharmacies. [*Desk thumping*] We will continue to send these files to the DPP and the police. Thank you very much, Madam President.

Madam President: Sen. Mark?

Sen. Mark: Could the hon. Minister indicate what specific regulatory mechanisms are in place to monitor the importation of substandard and fake pharmaceutical products into Trinidad and Tobago?

Madam President: Minister of Health?

Hon. T. Deyalsingh: That is done via the Food and Drugs Act and, as I said, those regulations are implemented, in my answer, via the Inspectors at the Food and Drugs Division at the ports of entry. So they examine all the import documents to make sure that these drugs are bona fide drugs being brought in by bona fide importers. Thank you very much, Madam President.

Madam President: Sen. Mark?

Sen. Mark: Madam President, could the hon. Minister indicate whether he is satisfied with the adequacy of the human resources available to carry out this important function at our various points, or ports of the entry?

Madam President: Minister of Health?

Hon. T. Deyalsingh: Madam President, the answer is that we have before the Public Service Commission, and I think the office of the CPO, plans to bring on

more persons. We can always do with more resources. I think the current complement is eight, where we need 12, and we are taking all steps possible to fill those last four vacancies. But Sen. Mark, as you know, we have to work with the different public service/public sector organizations to get that done. So we can do with more. We currently have eight and we need 12. That is the answer. Thank you very much, Madam President.

ANSWERS TO QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, there are seven questions due for oral answer today. I want I advise you that six questions are being answered today and Government is seeking a deferral of our response to No. 95. And, Madam President, just for clarification, I just want to point out that question No. 64 appears on the Order Paper. You may recall that on the last occasion Standing Order 27(15) was invoked and the Minister of Finance has received confirmation from the Parliament that the reply is due by 19th April, 2018. So Government intends to answer the remaining questions for oral answer except 95, for which we are seeking a deferral. Thank you.

Madam President: Question 95 is deferred for two weeks.

ORAL ANSWERS TO QUESTIONS

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

Saddam Hosein:

Hyatt Regency Trinidad

(Profits and/or Losses Realized)

95. Can the hon. Minister of Trade and Industry inform the Senate of the profits and/or losses realized by the Hyatt Regency Trinidad over the last five years?

Question, by leave, deferred.

East Grove Housing Development

(Details of Consultation)

79. Sen. Wade Mark asked the hon. Minister of Housing and Urban Development:

With respect to the Housing Development Corporation's proposed expansion of the East Grove Housing Development, can the Minister advise on the following:

- i. whether public consultations were held with stakeholder groups;
- ii. if yes, the dates and locations of all such public consultations;
- iii. a breakdown, by date and location, of the number of external stakeholders who attended said consultations;
- iv. the methods/means by which the public was invited to the consultations; and
- v. a breakdown of the cost of said consultations?

Madam President: Acting Prime Minister? [*Desk thumping*]

The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert): Thank you, Madam President. In my capacity as the Acting Minister of Housing and Urban Development, the answer to part (i): three public consultations were conducted, the first of which was held with key Government Ministries and agencies. A further two public consultations were conducted with communities in close proximity to the site. The dates and locations of the consultations and the stakeholders in attendance are as follows: In the first consultation, which was a Government consultation, the stakeholders included: the Ministry of Planning and Sustainable Development, Town and Country Planning Division, Ministry of Housing and

Urban Development, Ministry of National Security, the Occupational Health and Safety Authority, the Ministry of Labour and Small Enterprise Development, the Ministry of Public Utilities, the Ministry of Rural Development and Local Government, the San Juan/Laventille Regional Corporation, the Tunapuna/Piarco Regional Corporation, the Office of Disaster Preparedness and Management, Ministry of Agriculture, Land and Fisheries, Surveys and Mapping Division, Director of Surveys, Ministry of Works and Transport, Drainage Division and Traffic Management Branch.

That first consultation was held on the 20th of December, 2017, at the offices of the Ministry of Housing and Urban Development. Eighteen persons were in attendance. The second consultation was held on Friday the 29th of December, 2017. It involved the general public and business representatives of the area. It was held at the Curepe Pentecostal Church at the corner of Phillip and Mc Donald Street, Curepe. There were 37 persons in attendance.

The third consultation was held on Friday, the 9th of February, 2018. It involved the general public, executives and other representatives of the Agricultural Society of Trinidad and Tobago, representatives from the Trinidad and Tobago Farmers Union and the general public, again at the Curepe Pentecostal Church. There were 48 persons in attendance. The officials from Ministries and other agencies were invited by official invitation while flyers inviting residents and neighbouring businesses of Curepe and environs were circulated and placed in residents' mailboxes one week prior to the consultation.

The cost of the consultation was as follows: For the Government consultation, the cost was \$5,400 for refreshments. For public consultation, number one, the cost was \$1,687.50 for refreshments, and for public consultation

two, the cost was \$2,187.50 for refreshments and a \$500 contribution to the Curepe Pentecostal Church, making a total cost for the consultations, of \$9,275.

Madam President: Sen. Mark?

Sen. Mark: Could the hon. Minister indicate whether the Government intends to hold any further consultations with the residents and stakeholders within the community where that particular structure is supposed to be erected?

Madam President: Minister?

Hon. C. Imbert: I will seek clarification from the Housing Development Corporation.

Sen. Mark: Okay. Madam President, can the Minister indicate whether there was adequate notification from his information to the general public as it relates to the two consultations that were held, namely in December and in February, respectively?

Madam President: Minister?

Hon. C. Imbert: Madam President, I have indicated that various agencies were invited by official invitation, and flyers, inviting residents and neighbouring businesses of Curepe and its environs, were circulated and placed in residents' mailboxes one week prior to the consultation.

Sen. Mark: Madam President, could the hon. Minister indicate whether he has information as to how many invitations were issued by the HDC in terms of inviting personnel within the area to attend this particular event, the consultation—how many?

Madam President: Minister?

Hon. C. Imbert: I do not, but I will seek to obtain that information.

Sen. Mark: Could you give this honourable House an undertaking that you will be able to provide us with that information within a short period of time?

Hon. C. Imbert: Yes.

Sen. Mark: Could I ask, Madam President—

Madam President: You have no more questions, Senator. Next question, Sen. Mark?

East Grove Housing Development

(Details of Expansion)

80. Sen. Wade Mark asked the hon. Minister of Housing and Urban Development:

With respect to the proposed housing expansion reportedly approved for the East Grove Housing Development, can the Minister indicate:

- i. whether nearby alternative sites were considered;
- ii. the proposed cost of the expansion; and
- iii. the method by which the funding of the project will be sourced (whether by loan or bond issue etc.) for the same?

The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert): Thank you, Madam President. The answer to the first part of the question: Nearby alternative sites along the East-West Corridor were considered but were deemed unsuitable due to a number of factors, including, but not limited to the size of the site. Other sites considered were too small for the number of units which the Housing Development Corporation is trying to construct. Also, access to the site: Access to the site for other potential locations was difficult. The access to this site was easy. Availability and access to existing infrastructure: At other locations there is inadequate accessed available infrastructure. This site is on the main road and has full access to all available infrastructure. Other sites had the presence of squatters. This site has no squatters.

There was potential disruption and inconvenience to neighbouring properties in other locations that might occur during the construction phase. The construction at this location can be managed to minimize inconvenience. The proposed cost of the project is estimated at \$325 million. The project is a design/build/finance/construct project, which required the contractor to provide the necessary funding.

Madam President: Sen. Mark?

Sen. Mark: Could the hon. Minister indicate when this project is expected to commence, Madam President?

Madam President: Minister?

Hon. C. Imbert: In 2018.

Madam President: Sen. Mark?

Sen. Mark: Could the hon. Minister indicate how many units are expected to be constructed on this particular site in 2018?

Madam President: Minister?

Hon. C. Imbert: HDC proposes to construct 504 units, subject to the decision of the Town and Country Planning Division on the exact number of units.

Madam President: Sen. Mark?

Sen. Mark: Could the hon. Minister indicate what is the population expected to occupy those 504—41 units? [*Interruption*] Could I ask you for some quiet here, Ma'am?

Madam President: Minister?

Hon. C. Imbert: Madam President, I am not a “seer man”. [*Laughter*] I do not know whether they would be occupied by single family households, single-parent households, nuclear families with both a mother and a father; how many children each occupant will have. So it is impossible to answer that question.

Madam President: I think you have utilized—yes. Next question. Sen. Mark.

**East Grove Housing Development
(Details of Housing Units Completed)**

81. Sen. Wade Mark asked the hon. Minister of Housing and Urban Development:

With respect to Phases 1 and 2 of the East Grove Housing Development, can the Minister indicate:

- i. the number of housing units completed or renovated for the period September 2015 - January 31, 2018; and
- ii. the number of housing units distributed for the period September 2015 - January 31, 2018;

The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert): [*Desk thumping*]
Thank you, Madam President. This particular question speaks to the original East Grove Housing Development and not the expansion project. The original East Grove Housing Development is a completed and established housing development. Of the remaining units for distribution in that original development, two units were renovated over the period September 2015 to January 31, 2018. In addition, five units at the original East Grove Development were distributed over the period September 2015 to January 31, 2018.

**Diego Martin Health Centre
(Details of Contract)**

94. Sen. Saddam Hosein asked the hon. Minister of Health:

Can the Minister indicate the following:

- (i) the name of the company that was awarded the contract for the construction of the Diego Martin Health Center; and

(ii) the budgeted cost for same?

The Minister of Health (Hon. Terrence Deyalsingh): [*Desk thumping*] Thank you, again, very much, Madam President. Madam President, the answer to part (a) is that no contract has been awarded, therefore part (b) does not apply.

Madam President: Sen. Hosein?

Sen. Hosein: Madam President, can the Minister indicate with respect to the Diego Martin Health Centre, whether any contract will be awarded in the near future?

Madam President: Minister of Health?

Hon. T. Deyalsingh: That will be under the purview of UDeCOTT following proper procurement processes and it is under this administration that we have risen 24 points in the Perception of Corruption Index, something which was not done [*Desk thumping*] between 2010 and 2015. So UDeCOTT will be following all proper procurement processes to have a facility built in Diego Martin. Thank you very much, Madam President.

Madam President: Sen. Hosein?

Sen. Hosein: Madam President, can the Minister, after all of that, indicate whether or not the Ministry of Health intends to construct the Diego Martin Health facility and when?

Madam President: Minister of Health?

Hon. T. Deyalsingh: At the soonest possible time when UDeCOTT has followed all proper procurement processes, something which is alien to some colleagues.

Sen. Hosein: Madam President, could the Minister indicate whether or not any advertisement for the tenders for this project has already been advertised in any newspaper or any websites of UDeCOTT?

Madam President: Minister?

Hon. T. Deyalsingh: I am not the Minister for UDeCOTT. If you pose that question, I can certainly get the answers from UDeCOTT? Thank you very much, Madam President.

Lengua Road, Indian Walk

(Details of Ruptured WASA Pipeline)

103. Sen. Taurel Shrikissoo asked the hon. Minister of Works and Transport:

With regard to the recent severe landslip which occurred at Lengua Road, Indian Walk owing to a ruptured WASA pipeline, can the Minister advise the Senate on the following:

- i. what action is being taken by the Ministry to alleviate the plight of residents;
- ii. whether residents have been made aware of the Ministry's short-term and long-term plans with regard to same; and
- iii. whether accommodation has been provided to the resident who lost his home due to the landslip?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): [*Desk thumping*] Thank you, Madam President. With regard to the recent landslip which occurred at Lengua Road, Indian Walk, the following works were undertaken by the Ministry: Temporary road works were done to ensure accessibility to vehicular traffic. In addition to this, a report was compiled together with an estimate for the construction of a re-enforced concrete retaining wall and necessary drainage and road works. Bore hole tests were conducted and a sample of the soil was sent to the Ministry's laboratory. The landslip was added to the BLT programme list and work will commence as soon as funding becomes available.

Part (ii): The residents were informed of the Ministry's action plan in regard to actions stated in (i) above. (iii): The residents affected by the landslip no longer

reside at the location. The Ministry of Works and Transport has no information as to whether accommodation was provided by any other Ministry or Department to the residents. I thank you.

10.30 a.m.

Sen. Shrikissoon: Madam President, is the Minister aware that the temporary solution put forward on that road when the landslip did occur has deteriorated and the residents are affected again?

Sen. The Hon. R. Sinanan: Thank you, Madam President. Madam President, the Ministry is aware of that and steps are being taken to continue temporary works on the roadway.

Sen. Shrikissoon: Thank you, Madam President. Thank you Minister, and my last question which pertains to this, on the last occasion this was raised you did give some level of assurance that someone at the HDC would contact the resident who was affected and to date nothing has been done, so I am just asking, could you provide any update as to the progress of the accommodation for the resident?

Madam President: Sen. Shrikissoon, that question does not arise based on the answer that was given by the Minister. Any further supplementary?

Tourist Arrivals

(Carnival Period 2014—2018)

108. Sen. Saddam Hosein asked the hon. Minister of Tourism:

Can the Minister indicate the number of tourist arrivals to Trinidad and Tobago for Carnival during the period 2014—2018?

The Minister of Tourism (Hon. Randal Mitchell): [*Desk thumping*] Thank you very much, Madam President. According to the Central Statistical Office, the Carnival period includes the 17 days prior to the Carnival celebration as well as Carnival Monday and Tuesday, a total of 19 days. Visitor arrivals to Trinidad and

Tobago over the period 2014—2018 were 182,627 persons.

Sen. S. Hosein: Madam President, can the Minister indicate whether this 2014—2018 period was a decline in the amount of tourist arrivals from previous years?

Hon. R. Mitchell: Madam President, from my recollection it fluctuated.

Sen. Mark: Madam, in terms of written answers to questions, question No. 13 and question No. 17. Madam, I think that you—

Madam President: All right. With respect to question 13, Sen. Mark, I believe that my office did forward to you a response that had been received in furtherance of the request that was made from the office. That was done last week.

Sen. Mark: With some follow-up to come?

Madam President: Correct.

Sen. Mark: I just want to know what is an—[*Inaudible*]

Madam President: At this stage, no. But Acting Leader of Government Business, what is your response to the other questions?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, on question No. 17, you will recall that on the last occasion—No. 78 sorry, it was deferred for two weeks on the last occasion. So it is now due at a later date. Thank you.

**CAMBRIDGE ANALYTICA, AGGREGATE IQ AND THE STRATEGIC
COMMUNICATION LABORATORIES
(REFERRAL TO NATIONAL SECURITY JSC)**

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, having regard to the correspondence from the Speaker of the House of Representatives, in relation to the paper comprising the statement of the Attorney General related to the activities in Trinidad and Tobago of Cambridge Analytica, Aggregate IQ, and the Strategic Communication

Laboratories group and their affiliate companies, together with a compilation of relevant documentation and materials, I beg to move that the paper be referred to the Joint Select Committee on National Security for consideration and report by July 31, 2018.

Question put and agreed to.

VALUATION OF LAND (AMDT.) BILL, 2018

Order for second reading read.

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, I beg to move:

That a Bill to amend the Valuation of Land Act, Chap. 58:03, be now read a second time.

Madam President, the Bill being presented, as I just said, is the Valuation of Land (Amdt.) Bill, 2018, and it seeks to amend the Valuation of Land Act to better segregate the responsibilities of the Commissioner of Valuation, vis a vis that of the Board of Inland Revenue, and to address various uncertainties, anomalies and inaccuracies that exist in the current legislation.

Madam President, just to provide a bit of history so that we can all better understand where we are and deal with all of the inaccuracies that have been spread around this bit of legislation. Prior to the passage of the Property Tax Act in 2009, the system of taxation of land and property was governed by three bits of legislation: the Land and Building Taxes Act, Chap. 76:04; the Valuation of Land Act, Chap. 58:03; and Part V of the Municipal Corporations Act, Chap. 25:04. The Land and Building Taxes Act was introduced in 1920 and the concept of property then was segregated between land and buildings. They were both separately assessed and separately taxed. When the Municipal Corporations Act

was introduced, the taxes in respect of the four municipal corporations in Trinidad and Tobago were transferred under that provision to the municipal corporations and, therefore, the power to assess property to impose tax, to impose the rate was conferred on the four municipal corporations, namely San Fernando, Port of Spain, Point Fortin and Chaguanas. So that we had a system prior to 2009 where we had essentially five entities responsible for assessment of property, assessment of taxes, and collection of taxes on property within the small space that is Trinidad and Tobago. There was no obligation on the municipalities to have the Valuation Division get involved in the valuation of the property in those municipalities and, therefore, there was no consistency in terms of the assessment of values of properties. So you have in this small space, as Trinidad and Tobago, five different entities coming up with values based on who knows what principles.

In addition to that, although the Land and Building Taxes Act required periodic revisions of the valuations, there were two problems. One, under the Land and Building Taxes Act, those revisions were not required more frequently than every 15 years, whereas under the Municipal Corporations Act the revaluations were required every three years. In addition to that, although the revaluations were required under the Land and Building Taxes Act, the revaluations were not traditionally completed, and so the last comprehensive evaluation in Trinidad and Tobago was done in 1948. So that new values on properties that fell under the ambit of the Valuation Commissioner only occurred with respect to new properties, and old properties traditionally maintained their old values. So we could have, for example, a situation where you have a mansion in Goodwood Park, or Bayshore, or Gulf City, well not Gulf City because that is one of the municipalities, valued at \$1,000 because it was not done since 1948. Whereas the house next door to that, because it was a house that was built in 2000,

would have been valued at a lot more, and there was no indication that there was any intention to change that.

In addition to that, you have the four municipalities which were under the Municipal Corporations Act being valued more recently, and potentially more frequently, so that properties in essentially, the most developed areas in Trinidad and Tobago which would be Port of Spain, San Fernando, Chaguanas and Point Fortin would have been valued more frequently than houses outside of that and this resulted in a mass of confusion because there was significant inequality and inequity in the valuation of properties and, therefore, the imposition of taxes that go with that. There was a need to unify that system to create a better system of equity in the imposition and collection of property taxes. That had to be done. And so, it was felt that the best way to do it would be to unify the valuation of property under a single entity again and to impose the requirement for more frequent revaluations of property especially in Trinidad and Tobago where the value of property has moved so significantly over the years. So that is one of the main reasons for the amendment to the Valuation of Land Act.

Another issue that existed because there was no requirement to revalue properties more frequently than they had done under the legislation as I previously indicated, and because there was not proper implementation of the provisions of the legislation, it is estimated that in 2009 approximately 200,000 properties in Trinidad and Tobago had not been valued at all and, therefore, not bearing the burden that comes with those valuations. So, Madam President, we come to the amendments.

In 2009, the legislation was amended to unify the valuation under the valuations Act, but that legislation was not implemented for reasons that we do not need to necessarily discuss here, and the Government today is now seeking to

reintroduce the whole concept of valuation of properties and imposition of the tax that will come along with that. One of the benefits of having a universal roll where we have properties valued periodically in Trinidad, is that it will give the public a sense of what certainly the persons in the Valuation Division view as a realistic value attached to these properties.

We would remember that, perhaps not now when the economy is in the state that it is in, but certainly up to a few years ago, the values of properties were just moving at an insane pace. So that you would buy a property today and you could sell it within six months at a significant profit. I would not go down the road of what implication that should have had on the tax rule and the fact that we let that opportunity slide, but people in Trinidad and Tobago do not have a real sense of what property is valued at because we do not have a public record of the values of those properties. Unifying and properly implementing a more robust Valuation of Land Act will allow us to have a more realistic understanding of what the values of properties are and perhaps provide some control over the insane movement in the values of properties, and again perhaps allow our young professionals and others to acquire homes more easily than they have been able to in the past because of that crazy movement in property.

So one of the things we are seeking to do is to create a comprehensive roll that is up to date and that is maintained on a more current basis, and it is estimated that we have approximately 700,000 properties in Trinidad and Tobago that need to be valued. And so, it was necessary to more clearly define the responsibilities, and obligations, and authority of the Commissioner of Valuation to allow him to undertake that task in a real and effective manner.

So the key features of the Bill before us are as follows:

- The replacement of the President as the functionary who would set the

date on which the valuation roll would take effect;

- The establishment of a valuation tribunal to replace the Tax Appeal Board as the appellate body of first instance in respect to valuations;
- Conferring on the Minister power to amend the Schedule by order, and I will get into more details on these in a bit;
- The application of a de minimis rule for properties under \$18,000;
- The expansion of the method of service of documents; and
- The clarification of the definition of land to include multi-owner residential and commercial properties.

So what exactly do these amendments do? Madam President, under clause 3 we have amended, or we are seeking to amend the definition of “appeal” to remove the appeal process as I said from the Tax Appeal Board, and thereafter to the Court of Appeal because the Tax Appeal Board would have been the court at first instance, and replace that with a system where if anybody is aggrieved about a decision on an objection of the Valuation Commissioner, they could appeal to a Valuation Commission and then go to the High Court.

So why a Valuation Commission rather than a Tax Appeal Board? We have several reasons for this: one, the Tax Appeal Board is the board that handles all tax matters in Trinidad and Tobago. It is currently overburdened. The judgments are significantly behind, delayed. There is potentially a 10-year wait between when you get a decision on objection from the Board of Inland Revenue, and when you get your tax matter resolved before the courts. We anticipate perhaps, since we are going to be undertaking a comprehensive review of the values of all the properties in Trinidad and Tobago, that there may well be a slew of objections and we want those to be properly reviewed and reviewed in a timely and efficient manner. We did not think that could happen under the Tax Appeal Board.

We also know that there will be a need for assistance to be provided to the tribunal by somebody who has some understanding of how valuations work. And so, it was felt that a tribunal with that kind of expertise would better be able to handle the volume, the technicalities, and so on. I remember when I was in private practice and we had to go through the system of objecting to the Board of Inland Revenue, where you did not really get an independent review of your matter because it was one division of the board reviewing another division of the board, relying on the notes of the original auditor and believing what is in there. So that it was merely a formality that led to a confirmation of the original objection, and we had advocated on several occasions for the creation of an independent tribunal to review this issue before it got to court. Because quite often they were not technical matters, they were something that merely required somebody to independently look at the situation and determine what was reasonable.

And so, it was felt that if we created such an independent tribunal to allow for more expeditious assessment of issues and create the avenue for reasonable dispute resolution that we could more effectively deal with any issues that come out of the Commissioner of Valuation's assessment process, and yet still leave the taxpayer with the opportunity for his full range of appeals before the court. Because if he is not satisfied with the valuation tribunal he has a right to go to the High Court, thereafter to the Court of Appeal, thereafter to the Privy Council. So we are not depriving him of any rights. What we are doing is creating an independent tribunal that will allow for effective dispute resolution before the matter becomes too controversial and litigious. So this is the reason for the creation of a valuation tribunal, and that is why the definition of appeal is seeking to be changed by clause 3.

Clause 3 of the Bill also seeks to amend the definition of "owner", and we

were of the view that this was a very reasonable approach to take because at the moment we have one definition of “owner” under the Valuation of Land Act and we have a completely different definition of “owner” under the Property Tax Act, and if you consider that both Acts are to work together to allow for the assessment and collection of property taxes, then having two separate definitions was unreasonable. And so what we have done was incorporated into the Valuation of Land Bill the definition of “owner” that is under the Property Tax Act, which is wider than the definition that currently exists under the Valuation of Land Act. The reason for this is because we want the ability to be able to get information from whoever has access to that information, whoever has any rights over the land, who is in possession of the land, and to impose the tax—when we get to the Property Tax Bill we will get into that more—more effectively. So that we are seeking to import this broader definition.

Under clause 3 as well, Madam President, we have sought to clarify the position with multi-unit buildings, because in Trinidad and Tobago partly because of the land space that is available to us and partly because everybody wants to live near to a city centre, we have significantly increased the population of condominiums and townhouses. So we have a single building with a lot of owners and, therefore, we had to clarify how the assessments and thereafter the tax will apply in respect of that. So what we have said in defining land, each unit in a multi-dwelling building will be considered land. So that unit could stand alone and be valued accordingly, and similarly if and when we come to the situation of multi-owner commercial buildings the same would apply.

Clause 4, Madam President, clarifies the Commissioner’s rights and obligations in respect of what he can assess. Because a key purpose for the Valuation of Land Act is to arrive at an annual rentable value on which property

tax would be imposed, we had to pull that out. The Commissioner has to be able to value the annual rentable value of property in and of itself, and that is the key thing that he will be doing. But in certain circumstances, he also will have to be able to assess property based on a site value and improved value, and/or a capital value, either because he cannot arrive at a reasonable rentable value for the purpose of the property tax, or because he is valuing the property for another purpose because the Valuation Commissioner does not only exist to value property for the purpose of tax. He has to value it, for example, for stamp duty, or for rentals for the Government, that kind of thing. So he needed the ability to be able to value properties on different bases, but not have the obligation to do so in all cases. So we have given him the opportunity to determine what value he needs in respect of what properties.

Under clause 5, we are seeking to amend section 6 to give the Minister the power to amend Schedule II, which is the information return form that is required to be submitted by landowners and landowners as widely defined. Now, when you look at Schedule II you will see that we have amended the schedule to increase the information that we are requesting of landowners and it may seem onerous, but all the information is reasonable and all the information is required to allow the Commissioner to properly assess the value of properties, which is all that he is seeking to do.

The information on property is peculiarly within that of the owner of the property. So why not ask him for the information. As I said, we expect that the Commissioner of Valuation will have approximately 700,000 properties to value and we need this done in the shortest possible time. So the more information he can get from the owner with relevant supporting documents, the less work he will need to do to come up with a reasonable value and the more efficiently he can

therefore complete his task, and that is the objective of the amending the Schedule. We have also increased the fine for failure to file a return where the owner is required to file a return by law from \$500—which is nothing—to \$5,000.

Clause 6 seeks to amend section 7 of the Act to introduce a de minimis rule, and what does this do? This says that if the Commissioner is of the view that the property that he is considering is valued at less than \$18,000, that \$18,000 will be the value ascribed to that property. I will repeat that. If the Commissioner is of the view that property is \$18,000 or less, he will ascribe a value to that property of \$18,000. Now, while we are not debating the Property Tax Act because I know this will create some concern, I will indicate the implications of that. What that means is that for residential property the minimum tax liability that will be borne by the owner of property that falls within the de minimis rule is \$540 per annum. This is before the rebate. So it would be less than that. So let us say \$500 a year is the minimum and if you layer on top of that the fact that we do have a rebate start release system that allows us to waive the taxes for anybody who cannot afford it, I think we have sufficient protection in the legislation that does not make this provision an onerous provision.

Sen. Dr. Mahabir: Hon. Minister, a clarification. Thank you very much, hon. Minister, for giving way. I did not read the law like that, hon. Minister. Because when I read it is says that:

“Where the owner of land in Trinidad and Tobago...and on the basis of that return...the land carries an annual rental value of less than eighteen thousand dollars, he shall record that annual rental value as your annual rental value”—of the—“land.”

So my reading of it is that if the land is valued at \$7,000 it would be recorded as seven. I did not read it—it was not clear to me that the land is going to have an

annual rental value of \$18,000 regardless.

Sen. The Hon. A. West: Yes. We will look at the drafting, but how I explained it is what was intended, that if it is \$18,000 or less the value that would be recorded would be the \$18,000. So that he will not have to value every bit of property that he regards being less than \$18,000. So where are we?

We also have amended the legislation to provide a point at which the valuations become effective, because as the legislation is currently drafted, it would appear that every property in Trinidad has to be valued before the valuation roll can be published and before taxes can become effective.

11.00 a.m.

This could never happen because properties are always being purchased, they are always being built, so we would never come to a point unless we created a touch point where we could publish the roll and therefore, start imposing the tax. So what we have said is once the Commissioner of Valuations is satisfied that a minimum of 50 per cent of the properties in Trinidad and Tobago have been valued, then the roll can be published and the Minister is the one who has the power now to publish the roll rather than the President. Yeah?

Clause 8 of the Bill seeks to amend the legislation to allow the Commissioner to revalue land, not only where he believes it has been overvalued, which is the current power that he has, but quite reasonably to also revalue land where he is of the view that the property has been undervalued. Quite a reasonable position in my view.

We are also seeking to amend the legislation to expand the options for service of documents. At the moment, quite a few of the documents that have to be served by the Valuation Commissioner on owners of land had to be delivered by registered post. We thought that was not necessarily the best option so we have

expanded the options for service to include hand delivery and service by regular post depending on the circumstances.

So when, for example, an individual is required to appear before the Commissioner, that has to be served by registered post or hand delivered, and if it is just notification of an assessment, it can be served by regular post. And you need to bear in mind that assessments are going to be publicly published. So an individual always has the avenue to check what his assessment is, separate and apart from any delivery of a notice of assessment that comes from the Valuation Commissioner. So we thought, in those circumstances, it would be reasonable.

Section 19 is being amended to confer on the Comptroller the authority to receive directly and to directly deal with all appeals related to valuation of property. Now, if you look at the existing legislation, we have different bases against which an individual can object to valuation on the one hand and to property tax on the other. But when we examined the Property Tax Act, we saw that a lot of the basis for objection related to the valuation of property and those objections under the Property Tax Act would be required to go to the Board of Inland Revenue and then where they involved a valuation of property assessment, the Board of Inland Revenue could then refer them to the Valuation Commissioner. The Valuation Commissioner had nine months to get that back to the Board of Inland Revenue so that the Board of Inland Revenue could determine the objection within the 12-month period. We thought that was unnecessarily cumbersome.

So what we have done is transferred into the Valuation of Land Act and put under the singular authority of the Valuation Commissioner all matters of objection related to the valuation of property and we have left in the Property Tax Act only those matters dealing with the tax assessment itself. So that is the reason for the amendment to section 19 and if you compare the existing and the proposed

legislation, you will see that we have not expanded or reduced the grounds upon which you can object. It is just that we have removed the person to whom you can object where we thought it was appropriate to do so.

We are seeking to introduce sections 25A to 25I to deal with the composition and operation of the appeals tribunal which I mentioned earlier. So the proposed composition of the tribunal, you would have a chairman who would be an attorney with at least 10 years' experience. You would have a member with valuation experience and you would have one other. So it is a three-member tribunal: one attorney, one valuation expert and another person. The appointment of these persons would be by the Minister, but as I said, this does not infringe on the individual's rights to full access to the courts if and when he determines that that is required. This is a tribunal that would allow an independent hearing of the owner's issues before the matter goes into the formal court system.

So, Madam President, in essence, those are the proposed amendments to the legislation. They are reasonable. We are seeking to allow the Valuation Commissioner to effectively do the job that is required of him in the quickest possible time. We are seeking to allow for speedy resolutions of disputes. We are seeking to create a system of valuation that would allow members of the public to have a better and clearer understanding of the values of properties in Trinidad and Tobago and the relative values of properties in Trinidad and Tobago. We are seeking to unify valuations across the landscape so that we do not have the inequity that currently exists.

And essentially, Madam President, those are the provisions that are related to the Valuation of Land (Amdt.) Bill. It has been an honour to make the presentation. I thank you and I beg to move. [*Desk thumping*]

Question proposed.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, as indicated earlier, I was awaiting an instrument of appointment and I am now in receipt of same. So with your permission, I will revert to the earlier business on the Order Paper.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President Paula-Mae Weekes:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes
President.

TO: MR. BRIAN BAIG

WHEREAS Senator GERALD RAMDEEN is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, BRIAN BAIG, to be temporarily a member of the Senate, with effect from 17th April, 2018 and continuing during the absence of Senator Gerald Ramdeen by reason of illness.

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

UNREVISED

Tobago at the Office of the President, St. Ann's, this 17th day of April, 2018.”

OATH OF ALLEGIANCE

Senator Brian Baig took and subscribed the Oath of Allegiance as required by law.

VALUATION OF LAND (AMDT.) BILL, 2018

Madam President: Hon. Senators, all Members who wish to join the debate may do so at this time. Sen. Mark. [*Desk thumping*]

Sen. Wade Mark: Thank you very much, Madam President. I must say that I was a bit disappointed at the very weak and lacklustre presentation this morning, very disappointing, not being able to get the kind of information from the hon. Minister on the serious implications of this measure that is before us. I want to let the hon. Minister know, from the outset, this is not a reasonable proposal, it is very unreasonable, I must let you know.

In addition to that, Madam President, I was a bit confused eh. I did not know if the Minister, at one time, was indicating that we only valued 500,000 properties and there are only 200,000 still to be valued or to be assessed in 2009. And then at the end of her presentation or in the middle of it, we were told that there were 700,000 properties still to be valued or assessed in this country. So I think the Minister herself is not too clear on the legislation that the hon. Minister presented a short while ago.

Madam President, it was Selwyn Cudjoe, in an article on Sunday the 14th of March—no, Sunday the 18th of March, on page 14, titled:

“PNM ’till ah dead; maybe!”

But he quoted—[*Interruption*]—It is the *Sunday Express*, the date is Sunday the 18th of March, 2018, and page number 14 and the headline read:

“PNM ’till ah dead; maybe!”

But he made a very pointed statement in this article and I just want to share it with you as I begin my contribution. He said that:

“A backward party cannot lead a forward people.”

[*Desk thumping*] And I really want to endorse this statement. This is backward legislation that we are dealing with here today, very, very backward. And for a foundation member of the PNM to describe the PNM as a backward party says a lot about the nature of this organization.

You know, Madam President, what is even more significant? The hon. Minister, in a very casual way, said a short while ago: “You know, we increase this thing from 500 to 5,000, you know why? Because 500 is nothing.” That is what I heard the Minister said. Well I want to tell the hon. Minister, \$500, in Trinidad and Tobago, for the ordinary poor man, means something. [*Desk thumping*] So I would like to indicate that when I looked at this measure, I did not get the policy.

In 2009, in another incarnation, there was a policy that was enunciated by the then Minister who piloted the legislation. We fast-forward to 2018 and “yuh” not too clear what is the policy. We are hearing equity, but in the other place, we heard it is a revenue-raising measure. So what is the policy? Is it revenue raising or is it equity? “We not too sure” but I am very clear in my mind what it is about.

Madam President, of all my years in this Parliament, this amendment to the original piece of legislation of 2009 represents, again, a very oppressive, draconian, offensive approach to dealing with problems affecting Trinidad and Tobago. If the Government is interested in raising revenue, this is not the way that we should go about raising revenue in this country.

Madam President, recently, there was a big event at Hyatt, and Poten &

Partners indicated to this country that in nine years, because of the incompetence of our bureaucracy in this country, we lost close to \$300 billion because of the energy companies not properly accounting for revenues.

Sen. Gopee-Scoon: He said nine years?

Sen. W. Mark: Yes, I am saying for nine years, that is what we were told by your Government at that particular forum. But we did not go to 2002 to 2010, how much money we lost. But, Madam President, may I say very early that this legislation, if ever implemented, would bring about more property-less citizens, more landless citizens, and more homeless citizens in this country. [*Desk thumping*]

Madam President, laws are made in any society to serve the interest of the people in order to ensure that there is more equal opportunity, equal access and protection of the weak from the strong, and the State has a critical role to play in this matter. And here it is, we have a Bill before us dealing with valuation of land which is seeking to strengthen the power of the Executive. Madam President, I do not know if we have gone bananas, I do not know if we have gone mad in Trinidad and Tobago. I did not say we have gone mad here, I am saying that I do not know if we have gone mad in this country. But I will demonstrate the grab for power by the Executive of this Government, of this State, and I will demonstrate how this whole event that we have before us is designed to give the poor man more pressure at the expense of the rich.

Madam President, what does this Bill seek to do? It seeks to strengthen the power of the Executive over the people. It seeks to increase ministerial power and control over independent processes and in the process, contaminate and corrupt those processes, while simultaneously reinforcing these tendencies towards authoritarianism, autocracy and undemocratic conduct. [*Desk thumping*] That is

what this is attempting to do.

And there appears, in this legislation, to be little respect for the principle of the separation of powers which I will demonstrate as I proceed. Madam President, in many countries, including what is going on abroad, many emerging dictators seek to use political institutions of state or I should say institutions of state as political weapons in an effort to victimize and persecute their rivals, their opponents or what they call their enemies and I will show how this legislation is designed to achieve that objective.

So the Bill is about seeking to determine the value or the valuation of land but it is also seeking to determine where power is going to be residing and therefore, as I said, Madam President, the people in the process are becoming more and more powerless, more and more voiceless and more and more landless given where we are. And I can tell you, Madam President, homeowners, property owners, the working class, the working poor, the weak and vulnerable are the ones who are going to be most exposed to this particular assault on their rights.

Madam President, you would know, there are two things that you do not tamper with in a society unless you want war. You do not tamper with people's religious beliefs. That can lead to unrest. And you do not tamper with a man's property. You see land, land causes revolutions in many countries. Do not tamper with land in a very arbitrary and capricious way, it has to be properly thought out. There has been no consultation whatsoever with the population on this measure. [*Desk thumping*]. It is the most undemocratic imposition that we have witnessed in this country for the last 20 years. They have imposed this obnoxious piece of legislation on the people of this country without any iota of consultation. [*Desk thumping*]

But I want to warn them, I want to warn the Government that Patrick

Manning—and may his soul rest in peace—tried this legislation in 2009 and in 2010, he made the mistake of his life and he called an election and that was the end of him. I want to warn the Government of this country, you see this legislation, you better withdraw it. [*Desk thumping*] You better withdraw this legislation because this legislation will represent the end of you if you continue along this path as a party and a Government. Madam President, there is only vagueness, imprecision, subjectivity dotting this entire piece of legislation. There is no precision, there is no clear direction as to how this thing is going to be done.

So you would see in this Valuation of Land (Amdt.) Bill, they used annual rental value, then “they say site value, then they say capital value”. They removed the baseline, there is no base, so they could do anything at any time whenever they wish.

Sen. Gopee-Scoon: Misinformation.

Sen. W. Mark: I am saying that is in the legislation and do not disturb me, please.

Madam President: Sen. Mark, please address me.

Sen. W. Mark: And could I ask you for protection?

Madam President: You will get my protection. Can you address me, please?

Sen. W. Mark: Thank you, thank you; I do that, but please. So, Madam President, what we are saying here is when you look at this legislation carefully, what you are seeing are draconian measures being introduced in the legislation. And who are the people going to suffer? It is the poor people. [*Desk thumping*] This is regressive legislation because the bulk of the people who will be affected by this would be the ordinary man and woman.

If you are what is called in colloquial language, a squatter, the PNM “coming for you”, but they are saying they will tax you but you have no title to the property. So you are on state land, they are taxing you, Madam President, in terms

of what they are proposing when they assess your property, but they are saying at the same time, you have no right to the land, you have no title.

They went on further, Madam President, in the legislation, to indicate, based on what the Minister has said, \$500 is nothing so “we gone to \$5,000”. But you know, the Government has gone to \$5,000 and, Madam President, you know when they go to \$5,000, you know what it means? It simply means that if you fail to provide the State with information that the State considered to be inaccurate, you are going to be called upon to pay \$5,000. So if you go to 6 of the legislation, you will see where the Government is seeking to increase, as I said, from \$500 to \$5,000. That is if you fail to return the valuation form to the Commissioner of Valuation.

But, Madam President, Jamaica is under more pressure than us and in their legislation, if a Jamaican makes a mistake in submitting his valuation return form to the Commissioner of Valuations, he is charged 40 Jamaican dollars and they say, “in default, three months”. So you are paying \$40 and in default, you serve three months.

In Trinidad and Tobago, in the previous legislation, it was \$500. “Ah doh wanna say evil and wicked becau’ yuh might want tuh rule meh out of order”, but, Madam President, this is sheer, almost lunacy for a Government in a period of economic recession where they have imposed onerous burdens and taxes on the population—they have increased gas prices on three occasions in this country—and they come here and in the original Bill, there was \$500 and they gone to \$5,000. The amount of people who are unemployed in this country and working for the minimum wage, \$5,000 is a lot of money.

Why are you putting the burden on the poor man? Why are you saying to the poor man and the ordinary people: “You have to fill out a form and you must

supply me with that information and if you give me the wrong information, I am going to convict you and charge you and fine you”? Why are you doing that? So they have put the burden on you, Madam President, and on the ordinary people.

In any civilized country, what happens is that the Commissioner of Valuations and his office would have a slew of professional surveyors and assessors and they will, every five years, go out there and do their assessment and evaluation of all the properties, then they will mail you a notice, and if when you get that notice, you have an objection, then you go through certain processes. What this PNM Government has attempted to do and is doing in the legislation, there are 700,000 properties, according to the Minister, to be assessed in this country: agricultural, industrial, commercial and residential. They are saying that those categories of personnel populating those sectors, they are to fill out those forms and if you provide wrong information, what happens?—\$5,000 or you go down the chute or both. How can that be fair? How can that be fair?

And then, Madam President, when you look at some of the provisions that they have brought here, none shall escape. None shall escape. “Yuh have ah boat floating, dais ah house, they tax you”. If you go to clause 5 of the Bill, they have now introduced building or condominiums—

Sen. Gopee-Scoon: Clarity; that is what it is.

Sen. W. Mark:—right, multi-dwelling units, commercial properties. So, Madam President, wherever you are, they are coming for you, you cannot escape. The PNM is there to lock down people. [*Crosstalk*] They are literally locking you down, Madam President.

Sen. Gopee-Scoon: No, no, no, no.

Sen. W. Mark: In other words, I am not saying that they are doing it and PNM, PP, you know, “is ah general term”.

Sen. Gopee-Scoon: Excuse me, point of order, 46(4). [*Crosstalk*] Yes, “we not there to lock down nobody”.

11.30 a.m.

Madam President: Sen. Mark, please try and refine your language as you continue in your contribution.

Sen. W. Mark: Thank you, Madam President. So, Madam President, what we are arguing this morning is that the Government is bringing legislation to provide more and more pressure to the ordinary— [*Interruption*] Madam President, this lady is only disturbing me.

Madam President: No, no, no. Please. You refer to Members by their—

Sen. W. Mark: The hon. Member.

Madam President: Yes. But please, I am going to call on all Members not to indulge in this crosstalk. Okay? Because inevitably something is said that offends some other person. So stop it. No more crosstalk. Okay? Continue, Sen. Mark.

Sen. W. Mark: Yes, Madam President. So, we are talking about, you know, a valuation roll. The Government, as the Minister admitted, the last one was done. A proper global evaluation and assessment of properties in our country was done under the colonialists in 1948. Under that law, we were supposed to do it every 15 years. The PNM was in power under Eric Williams for 30 consecutive years. They never brought about any assessment or evaluation of properties.

In 1990, Madam President, they did what is called a guesstimate and an estimate. And then they come back in 2009, and they did a further estimate and guesstimate. Do you know what they are telling us now, Madam President? Having failed to do their duty, they are now telling us, the population, do our duty. Do their duty for them. So they want us, Madam President, to do the work that they were supposed to do. How could that be fair? How could you now impose on

a population that onerous responsibility that you are supposed to be carrying, Madam President? And you are saying, Madam President, if you object to what is being provided by the Commissioner of Valuations, then you can take your matter to what is called the Minister of Finance's tribunal. This is the personal property of the Minister of Finance. Madam President, he hires, he fires, he removes, he suspends. [*Desk thumping*] God has now visited this planet in the personality of the Minister of Finance.

Madam President, how can you, in 2018, put in legislative form such an offensive provision that runs against due process, Madam President; that contaminates the whole separation of power process; that contaminates and undermines the separation of powers? How can we, as a Parliament, sit here and agree to that? Madam President, under no circumstances will we agree to any legislation giving a Minister power to establish his own personal tribunal. [*Desk thumping*]

Madam President, we would have preferred that the Tax Appeal Board be expanded, be better resourced, have more personnel employed there and there would be greater equity, impartiality and independence in the process [*Desk thumping*] rather than giving this Minister all this power to do what he wants to do.

Madam President, we have seen what is happening in certain parts of the world, where institutions are being used as political weapons to victimize and to persecute opponents, rivals, or what some call enemies. And what the Government is attempting in this legislation, Madam President, if we are not careful, is to achieve that very objective. They are using this tribunal—

Madam President: Sen. Mark, please have a seat. I do not think that you can make your argument in that form. So I would ask you again to refine your language and to be very careful with how you are making your presentation.

Sen. W. Mark: Madam President, this is in the legislation, you know. In fact, for ease of reference, rather than I narrating, I will quote for you. So you will understand—when I say “you”, the hon. President—what I am saying. I am just justifying what is in the law. That is all I am doing. I am not saying anything negative, Madam President.

Madam President: Sen. Mark, please, please. You almost sound as if you are quarrelling with a decision that I have made.

Hon. Senators: Yes, yes.

Madam President: Members, please. So all I am asking you, your language is becoming a little intemperate and I am just asking you please, to be aware of that as you continue in your contribution. And may I just say that I am listening to everything you are saying. No need to repeat something for me to understand.

Sen. W. Mark: Thank you, Madam President. [*Desk thumping*] So this is dangerous legislation. We are clear about it. We will not be able to support it. And I want to warn the Government, if they proceed with this legislation you will meet us somewhere else. This legislation is offensive. It is oppressive. It is draconian, and it is unacceptable to the population of this country. [*Desk thumping*] Madam President, the question I want to pose to you, and let me just, as you said, maybe if I am too passionate in how I express myself, but I will wait for them on the campaign trail. [*Desk thumping*]

Madam President, may I also indicate to you, that when you look at what has happened with our oil resources being frittered away, because of the incompetence of the bureaucracy of our country, we are now being called upon to bear the burdens of incompetence, Madam President. So \$300 billion “gone, gone” and we are being asked today to do what? Pay 3 per cent on residential property, Madam President; 1 per cent on agricultural property or 2 per cent on agricultural property.

And, Madam President, if you are not using your land, you pay 3.5 per cent for residential land alone. On agriculture, I think it is about 2 per cent. In industrial it is, I think 6 per cent, and commercial is about 5 per cent. So if you go to the original legislation, you will see, Madam President, where these percentages have come from.

But, Madam President, the reason why the Government wants us to do their job is because they do not have the machinery in the public service to do their job for them. So public administration has collapsed, and we are being asked to carry that burden. If the Government was doing its job, Madam President, and every five years or 15 years they were doing what is called a proper evaluation and assessment of properties, we would not have been in this position today. And therefore, we are arguing that the Government is not really serious about this particular matter. They are seeking to impose their will on the population, and we cannot support it, Madam President.

And the Minister, Madam President, let me quote something for you on page 8, section 25B of this report:

“(1) The Minister may suspend a member of the Valuation Tribunal from office on the ground of mis behaviour or physical or mental incapacity of for cause.”

Madam President, how can a politician, claiming that he is setting up a quasi-judicial tribunal, how can this politician be given that authority, Madam President? It is not only suspend, you know, Madam President, there is a provision here that says: the “Minister shall also remove.” So if you go to 25B(2), it talks about the removal of people from the tribunal.

How can we agree to a Minister having that kind of power, Madam President? Madam President, I want to tell you, in Barbados, pensioners pay 50

per cent of land tax, once their property does not improve beyond Bajan \$125,000. In Trinidad and Tobago, we are saying that everybody must pay, including the pensioner. Madam President, there are no exemptions of real significance in the legislation. So even the retiree is in trouble under this legislation. How can we support this? Madam President, we cannot support this Bill, now or in the future. We will not support it.

So, Madam President, we are advancing that this legislation gives too much power to the Minister of Finance, and the Minister of Finance, without the relevant checks and balances, can be—I am not saying that the Minister will do it, Madam President, he might be a very good Minister today but you might put another Minister tomorrow and that Minister can abuse that power and misuse that office and therefore it is very dangerous, Madam President, to put this kind of power into the hand of any Minister, Madam President.

So we want to suggest to the Government that this entire provision is offensive. Madam President, if you go to the laws of Barbados and you go to the laws of Jamaica, there is something called the Revenue Court in Jamaica. If you have, Madam President, an objection from the Commissioner of Valuations who has valued your property and you believe that he has done it improperly, you can go to what is called the Revenue Court of Jamaica. The Revenue Court is a superior court of record, Madam President.

And, Madam President, do you know what is more interesting? There was a provision in the original legislation that says when you take up a matter that the Commissioner of Valuations has put to you, you object to that particular valuation, the original provision in the legislation says that the Government of Trinidad and Tobago will fund your appeal to the Tax Appeal Board at the material time, when the legislation was originally brought here in 2009. Do you know what the

Government is now proposing, Madam President? They are saying you must pay your way. So the Government has removed that provision that gives the ordinary people who would like to appeal the decisions of the Commissioner of Valuations and now says you must fund your way.

Madam President, I have news for you. In Jamaica, that is a provision in the Jamaican valuation of land tax Bill or Act, where you are funded by the Jamaican taxpayers to appeal a decision of the Commissioner of Valuations of Jamaica, Madam President. But, in Trinidad and Tobago, we are being told that we must carry the burden completely, Madam President.

Madam President, it seems to us that—and only clarity could provide us with some direction here, Madam President—because of the weakness of the legislation, Madam President, it appears that if a tribunal in its current form invites a member of the public to—

Madam President: Senator, you have five minutes more.

Sen. W. Mark: Yeah. If a tribunal invites someone to appear before it, it is all left up to the individual. Because this Bill, in its current form, is interfering with people's property rights. And when you interfere with people's property right, under the Constitution, you are in violation of sections 4 and 5 of the Constitution of this Republic. And Madam President, we believe that the legislation, in its current form, is totally unacceptable. It is unworkable. It will be a nightmare, bureaucratic nightmare, for the administration to execute properly and efficiently. And, therefore, this legislation needs to be referred to either a joint select committee or it should be withdrawn completely. Either you withdraw this legislation, Madam President, or you refer it to a joint select committee.

So, Madam President, as I said, there are many provisions in the legislation where the Minister, by Order—so in other words, Madam President, there are no

checks and balances. It is not subject to an affirmative resolution of the Parliament. The Minister by Order will do this. The Minister is going to change the Schedule, Madam President, by Order. He makes no reference to the Parliament. So we are giving the Minister power, Madam President. And we have no control or checks and balances. So the Minister can do what he wants, when he wants, how he wants to do it. And there should be an affirmative resolution there, inserted.

Madam President, one final area I would like to bring to your attention. When we were dealing with the procurement legislation, we dealt with something called a review board. The original legislation says that the President shall appoint the Regulator and other members after consultation with the Prime Minister and the Leader of the Opposition. Madam President, when we came to the Review Board, although there were a lot of discussions, you know, Madam President, we agreed that the same arrangement should take place. The President shall appoint the members of the Review Board after consultation with the Prime Minister and the Leader of the Opposition. In this instance, Madam President, the tribunal, what do we have? The Minister, unilaterally, independently of everyone, is appointing, removing and suspending. There is no relationship between the Prime Minister, the Leader of the Opposition or the President.

And, Madam President, do you know what is more frightening? We have just abolished/deleted the Tax Appeal Board. We have deleted the role of the President of the Republic, and we have replaced the President with the new President—the Minister. The Minister is now, for all intents and purposes, the person who has re-replaced. Because, Madam President, if you go to the Tax Appeal Board legislation, the President of the Republic appoints the chairman and the vice-chairman, and the chairman is independent. Do you know why he is

independent too, Madam President? His moneys come directly from the Consolidated Fund. This one is coming from the purse of the Minister of Finance. So these people are going to be puppets of the Minister of Finance. They are going to be stooges and tools of the Minister of Finance. And we cannot support that in all good conscience, Madam President. How can we support that? [*Desk thumping*]

So, Madam President, in closing, I want to serve notice. This legislation is unacceptable, indefensible. We cannot support this legislation now nor in the future. And if the Government proceeds to pass this legislation, because they have the majority on their Bench, we will deal with them at the appropriate time. Time longer than twine. Elections will be 2020 or before. And we will deal with you on the platform when we address the 700,000 property owners indicating what you have done in this Parliament. Thank you very much, Madam President. [*Desk thumping*]

Sen. Taurel Shrikissoon: Thank you, Madam President, for recognizing me and allowing me to contribute to this debate on a Bill to amend the Valuation of Land Act, Chap. 58:03. I would also like to thank my colleagues for allowing me to begin or to commence this debate on behalf of our Bench.

Madam President, I am aware that this Bill is essential to amending the parent Act before us today, with respect to the valuation of land in Trinidad and Tobago. The purpose of this Act, according to the Act, in section 24, says:

“Where in any other written law, reference is made to the site value, improved value, annual rental value or capital value of land and there is a subsisting valuation made under this Act of the land in question,”

This shall be the site value, the rental value or the improved value. So it is saying that this Act is actually demonstrating or bringing to life the value of a property for

which that value would be used later on.

Section 25 of the Act also says:

“The Commissioner shall, as soon as is reasonably practicable after the completion of the valuation roll, furnish a copy of that roll to—

- (a) the Board of Inland Revenue;
- (b) any local authority; and
- (c) such other persons as may be prescribed.”

So we are seeing here that the purpose again is for use by state agencies and other agencies specified in the law.

Clause 17 of the Bill is amended today to show that the Commissioner may, in order to obtain information, required for the purposes of this Act or the Property Tax Act. So the amendment is here for this purpose, to state that when information or evidence is required, this Act can also require people to come forward and provide information or evidence with respect to the valuation of a property.

But there is one more important purpose of this Act that I would like to highlight, and it is very important that I say to the public and to Trinidad and Tobago there is a fundamental difference between this Act and the Property Tax Act. And, in my mind, it is that the Valuation of Land Act before us here pertains to the valuation of property, the Property Tax Act, separate and distinction from this one. And it is saying here that the information used in that Act will come out of this. So this Act is specifically related to the valuation of properties, and that is important in my mind. So is it very clear that we make the distinction that this Act and the amendments today pertains to how we value property.

If you would allow, Madam President, to just say this one thing of the link between the Property Tax Act and this Act, but I am referring to the old one, not in any way pertains to any of the new amendments to come, just specifically for the old one, the one that is currently in existence. It says here, under clause 6:

The Assessment Roll shall comprise all the information contained in the Valuation Roll created by the Commissioner under the Valuation of Land Act.

And that is all that I want to say, that the information that would be used there comes out of this.

So this particular Act has great significance for information purposes. But it also has a consequence, which is the tax liability for individuals when the property tax is implemented. So we need to be very cautious, and this piece of legislation needs to be treated carefully because it has, one, information requirements, but, two, a tax liability that rests on the information that is gathered from this Bill. That is why, in my mind, it is very important. Because if we get this part wrong or we do not get it, or we do not get it right, the tax liability can have implications. And, therefore, again I say that this piece of legislation is very important to get it 100 per cent right, because of the tax liability.

Madam President, if we go to clause 4, of the Bill, clause 4 of the Bill before us amends section 5 to now read:

The Commissioner shall, where necessary or as required, make a valuation of the—

site value, improved value, annual rental value, and where necessary the capital value of every parcel of land or any part thereof.

It is very important to note here that the law is prescribing that the Commissioner has the power to value, using methods available to him or her, which would be: site or improved value, annual rental value, or capital value. So what we are seeing here is that three valuation techniques can be used by the Commissioner to arrive at a valuation. And the Minister was right. In piloting her Bill she said that, but she said for different purposes.

Let us examine each one. According to the interpretation section of this Act:
“‘site value’ means, subject to subsection (3), the capital sum...”

The:

“‘improved value’, in relation to improved land, means subject to subsection
(2), the capital sum...”

And:

“‘capital value’ means the sum, which the fee simple might be expected to
realise if offered for sale on such reasonable terms and conditions as a bona
fide seller...”

[MR. VICE-PRESIDENT *in the Chair*]

So what are we saying here? That the capital value is being used to some extent
for valuation, site value and improved value. But there is another technique that
was introduced under clause 5, which says annual rental value. Annual rental
value, by definition, means:

“the annual rent which particular land is likely to attract having regard to the
purpose for which the land is actually used, occupied or tenanted,”

It means:

“the annual rent which particular land is likely to attract...”

And I am saying this to say that, because there are multiple methods of valuation,
the site or improved value, the capital value and the annual rental value, the
Commissioner has at his or her disposal these valuation techniques. And in my
mind, and I would like to say this very early on, when you are valuing someone’s
property, especially where there is a tax liability to come, we must be very specific
in the method we use in coming up at the value.

And why am I saying this? When you value someone’s property, and the
Commissioner has or her autonomy to value the property based on site value,

capital value, improved value or annual rental value, the question is: When a valuation is presented, which technique was used?

If multiple valuation techniques are used and there are differing values, which one takes precedence? How will the owner of the property know which valuation technique was utilized? And therefore, what would be the grounds on which the owner of the property objects, not knowing that his property can be valued in multiple ways, and not knowing which one was used, and the justification for it? So Mr. Vice-President, we have to be careful in the technique that we employ, especially as legislators in this House, or we are crafting law which has an impact and a tax liability on citizens, when we are unsure or not specific, I should say, with respect to how the valuation will be computed.

And I say this to say, and let me get to my next point and I will come back to that in a sec. Why am I raising the issue of the multiple valuation techniques? In 2009, there was an amendment to this piece of legislation and clause 18 of that Valuation of Land (Amdt.) in 2009, says:

“Where prior to the coming into force of this Act valuations were conducted by the Commissioner of Valuations based on any other value other than site value or improved value, such valuations and all acts or things done pursuant to such valuations, are deemed to have been as valid and effectual as if the Valuation of Land Act empowered him to conduct valuations based on any other value other than site value.”

So, Mr. Vice-President, what I am saying here is that in 2009, or prior to 2009, the Commissioner of Valuations was only able, or should have only computed valuations based on site value. But here in 2009, an amendment, valuation of land amendment, was laid in this honourable House to state, to validate the Commissioner's actions where multiple methods of valuation were

used prior to 2009. So they are saying: “Listen, given that multiple valuation techniques were used in the past, we are now going to create this note or amendment to accept what the Commissioner has done, irrespective of the method, up to 2009.” So this note was passed.

What happened then in the other place, when this Bill was laid, the 2009 amendment, in the other place, by the former Minister of Finance, the hon. Karen Nunez-Tesheira, said, and I am quoting here from *Hansard*, Friday, December 18, 2009, page 307:

“A second protocol feature of the property tax reform...”

—and at that time they were debating both Bills together—property tax and valuation.

It says here:

“A second protocol feature of the property tax reform exercise as indicated earlier is the adoption of a property tax appraisal system based on the rental value...”

So, what we are seeing here is that in 2009, after we recognized multiple methods were used, there is a move towards harmonizing the method used. And in 2009, we are now saying: “Listen, annual rental value is the way forward.” And this was laid in the House.

Now, if we go to the Ministry’s website as is, for those of us who have our devices we can check it, and we pull up the Valuation Division of the Ministry of Finance, and I would like to quote from that website, it says here:

“The Valuation Division was created by an Act of Parliament, ‘The Valuation of Land Act’ Chapter 58:03 of 1969 to inter alia create the functionary of the Commissioner of Valuations...”

I just want to skip down for a sec.

“The Valuation of Land Act was amended by Act No. 17 of 2009 to empower the Commissioner of Valuations to value properties based on an annual rental system and validated the actions of the Commissioner...”

—prior to 2009. And that is now. That is on the website now.

12.00 noon

So it is saying here that the Valuation Division is using or has been prepared and the legislation is also supporting it, for annual rental value. And if the website is saying this, then why are we now legislating a change to the law which in 2009 it was fixed. And now we are saying we validated the actions of the Commissioner prior to 2009 bringing it now to say we are moving forward with annual rental value. And now today, some nine years later, we bring to this House a method that puts us back into that mess of multiple valuation techniques.

And I am concerned about that. I am very much concerned about that because if it is it has a tax liability then you need to be specific of which method is used. And if it is that we want to use different methods, then we need to legislate and say under what conditions would each method be used. And the owner of the property has to be informed as to why. So I am very much concerned that at this point in time, we are using words such as “where necessary” and introduce multiple valuation techniques to arrive at a value.

Now, just on an accounting side—

Hon. Al-Rawi: For the purposes of being able to add clarity, would you just identify which clause in this Bill deviates by creating for the first time, multiple value techniques? In this Bill?

Sen. T. Shrikissoon: Thank you, hon. Attorney General. I am referring to clause 5 of the Bill which we amending today. Clause 4 of the Bill that we are amending, which refers to section 5 of the parent Act and it says:

“The Commissioner shall make a valuation of the site value...”

—and if you would allow me to get it back, to read it with the amendment:

The Commissioner shall, where necessary or as required, make a valuation of the site value or improved value, annual rental value, where necessary the capital value of every parcel of land, or any part thereof.

So therefore, this is the basis for me saying this, that you have multiple valuation techniques in the legislation—which one is going to be implemented? Which one is going to be used to value? We are unsure. The *Hansard* and the website is saying one thing and the legislation today is saying another. Which one is it? And I am saying because it has a tax liability for the citizen, we need to be specific.

Why am I saying this? If you look at the laws that govern valuation of land across the world, and I just will call some countries. Jamaica: Land Valuation Act. What is the basis? Improved or unimproved value. Barbados: site or improved value. Not fair market value. The UK: the council tax, fair value. Japan: fair market value. Australia: site value. Germany: the surrogate rateable value; the price which could be realized in the case of a sale. Singapore: annual rental value.

Why am I going through multiple countries? To show that there is one consistent method. That is my point. And if we are going to legislate here with respect to the valuation of a property, then we should have one method. If you want to introduce others, say under what conditions when this cannot apply, those methods would be used. That is my point.

Mr. Vice-President, as I continue, and I am thinking that this is the most important point that we need to get right with the valuation techniques. If we look at the way in which clause 4 of the Bill, which refers to section 5. It says here that: section 5(1) allows the Commissioner to value land; 5(2) allows the Commissioner to value vacant land; and 5(3) allows the Commissioner to value plant and

equipment not contained in a building.

So that this clause speaks specifically of land and if you go to the definition section, you will recognize that land means all land, it means land covered with water or all buildings or part thereof. So, land here can incorporate both land and building. Therefore, in my mind I am saying if it is that an annual rental value is going to be the method of choice, how is it that you are going to arrive at the annual rental value of a piece of land.

If you go to—let us just say an area of Maraval or Cedros, how is it you are going to arrive at an annual rental value of land. That is not a metric that Trinidad and Tobago is accustomed to; very few cases you would have rental of land. Most land in Trinidad may be freehold land and then you have leasehold land. How are you going to arrive at the annual rental value of land? And when I say land, I mean a plot of land without a building. And I am saying here because of that we also need to specify what will be the metric used to arrive at the annual rental value of land; whether it is 1per cent of capital value, 2per cent, 3 per cent. Whatever it may be, we need to be specific as to how we are going to arrive at the annual rental value of land so as to be consistent across the board. We need to say that in the legislation.

How will properties with mixed use be valued? So, some properties are residential/commercial. What percentage of the valuation is going to reflect the residential component as compared to the commercial component? That is also absent with respect to the legislation.

Clause 6 of the Bill, which pertains to section 7, and Sen. Mahabir raised an issue concerning it, and my issue is a little bit different, although I share his concerns. It says here, clause 6 of the Bill says, which refers to section 7 of the parent:

“Where the owner of land in Trinidad and Tobago makes a return of land under section 6 and the Commissioner is of the opinion on the basis of that return that the land carries an annual rental value of less than eighteen thousand dollars...”

So, we are using a minimum benchmark or minimum cost of \$18,000 based on annual rental value.

But in section 5 it says the multiple valuation techniques of capital value, improve value, site value, then why are we not specifying the minimum requirement or the minimum value based on the other methods as well. Why are we saying it is specific to annual rental value, when we are saying that there are multiple techniques? If you are assigning a minimum based on annual rental value, but your legislation is also saying there are multiple methods, then we need to say what would be the minimum value based on the other techniques as well.

We cannot say that there are multiple techniques and then ascribe a minimum value based on only one technique. If the law is to be fair it has to be balanced. So what is the minimum value using capital value? What is the minimum value using improved or site value? We are not sure. So, which is the method that we are actually using. I would like to think, based on the way in which the legislation is framed, it might be annual rental value. But that is not clear here.

Clause 8 of Bill before us refers to where it appears to the Commissioner that lands has been overvalued or undervalued and I commend the Government for this addition and this amendment because it is saying here, where a discrepancy is observed whether over or under it can be adequately addressed. This amendment I welcome and I say it strengthens it and I commend the Government for it.

Clause 9 of the Bill amends section 16 of the Act, this section pertains to the information which forms part of the valuation roll. It says here, according to

clause 9, section 16 of the Act is amended in subsection (1) by deleting paragraphs (b) and (d). Paragraph (b) being the name and postal address of the person in possession not being the owner. And I am good with that. Part (d) says we are going to remove the site value of the land.

Now, if we are amending section 5 to say, “Listen we can use site value, we can use improved value, we can use capital value”, then why in section 16 on the valuation roll, the information concerning site value has to be removed? If it is an established valuation technique, according to section 5 of the parent Act, then I am not seeing the logic in removing it from section 16 of the parent Act as to being part of the valuation roll. In my mind, that is inconsistent, if you are using it leave it, if you are not using it, take it out. And if you are removing site value, then you should be removing improved value. But then which method we are using? We do not know. So, I have concerns about that.

Annual rental value, and I am sticking to this section—section 16 in the Bill before us—clause 9, an annual rental value means the annual rent which particular land is likely to attract. It is saying that under normal circumstances what this piece of land would attract as an annual rental value; that is my interpretation of it. But if you go to that same section 16 of where we are removing (b) and (d) and you look at (k), it says where the land is rented, the amount of rent paid on the land and the number of tenants must also be disclosed.

Why is it that we want to determine the likely rental of a piece of land and we are asking individuals to submit number of tenants, names of tenants, how many tenants, and how much they are paying? That is not likely, that is specific. And we do not go into someone’s business and ask, “How many refrigerators have you sold? What is the name of each customer? Where was the fridge delivered?” We do not do that.

If it is the income you are going after, corporation tax and income tax will take care of that. But the definition is, which particular value of the land is likely to attract? So in my mind, the information that you are trying to actually collect would be the average annual income based on the rental of the property. You do not need to go into the name of the tenant, and the details of tenant, and the details of the lease. What is the average annual income earned by the property? You do not need to get into the individual aspects of it.

I want to touch a bit on a clause that Sen. Mark raised, with respect to the Valuation Tribunal, and he raised this point specifically and I particularly like the point, and I am concerned about the point and I share his concerns, so I do not need to repeat the aspects of the legislation that pertain to it. But it is saying that the Minister has: A valuation tribunal shall consist of the chairperson, an attorney-at-law, the members of the Valuation Tribunal shall be appointed by the Minister, the Minister may suspend a member of the Valuation Tribunal, and a person may resign by offering his resignation to the Minister.

So Sen. Mark is right, in my mind, with respect to this clause, because you have the Ministry of Finance who has a Valuation Division, and now you have the Ministry of Finance now having a Valuation Tribunal.

So one aspect which is the right hand, the Valuation Division performs a valuation and someone objects, and when they object you go to the left hand of the same Ministry. Is that really justice? And the question really is with respect to this, if someone raises an objection to a valuation, then it goes to the tribunal, but the tribunal being part of the Ministry of Finance is really the defence of the valuation. And you are asking the defence of the valuation of the Ministry to adjudicate on a matter that pertains to the Ministry, and therefore the Ministry of Finance cannot be, or should not be I should say, the defender of the valuation

proposed by the Valuation Division and the adjudicator with respect to the objection. [*Desk thumping*]

It cannot be and I would like to support Sen. Mark's suggestion which I also had here, that this tribunal, if it is to be established, if it cannot be handled by the Tax Appeal Board, then the best place for it to be appointed and sit is under the auspices of Her Excellency, the President of Trinidad and Tobago. [*Desk thumping*] I support that.

Mr. Vice-President, this amendment talks about objections to property valuation and how it is to be valued. In accounting, and those in the field would know, there is a term called impairment of asset where an asset can lose value over its time for many reasons. And if someone has a property and God forbids, and that house is burnt then the valuation of that property comes down. If it is that a company has a piece of equipment and this law before us also seeks to value a property with property plant and equipment and that substantive piece of machinery becomes obsolete or can no longer function, it will affect the valuation of the property.

Where in the law does it allow for a property owner to indicate that a loss of value has occurred and justify his or her position? The law is totally absent on an asset which is impaired and the process whereby someone can indicate to the Commissioner of Valuations, "Listen, based on the valuation this was the value, given these circumstances that have occurred, I do believe that this value has been reduced and therefore I do invite you to reassess or I submit by how much it has been affected". But the law is entirely absent on an impaired asset.

With respect to Schedule II, Mr. Vice-President, if you look at the information requirement of the schedule. It is asking for and if I am able to just get it quickly. It says here, under sections 1 and 2 of the Schedule II it speaks of

personal information, owner's name, nationality, national ID and, general, which municipal corporation is the property located, was this property purchased within the preceding 24 months and the like.

But, if we are using site value, capital value or improved value of the property then is the size of the plot mentioned here? Number of buildings on the plot, is it mentioned here? Square footage of the buildings, square footage of the land, is it mentioned here? The topography of the land which will influence capital site or improve value, availability of utilities, land tenure, whether it is freehold or leasehold, is that here? And the answer is no. So therefore under the general subsection we need to make amendments to sections 1 and 2.

With respect to sections 3, 4, 5, 6 and 7 which pertain to the information that will be collected under the annual rental value system, then I do believe that there is a part of this information gathering that is too detailed and unnecessary and gets into the actual affairs of the business relationship that the person A, who is renting or letting, and the person B who he is subletting or letting to.

Because name of tenant, name of lessee, current rent per month, date from which the occupier started paying rent, how many apartments vacant, how many rooms are there? That level of detail is not required to arrive at a valuation based on annual rental value which is defined as the value for which it is most likely to attract.

More so, there is a significant increase in the penalty for misinformation on this form. And therefore, by the time someone fills this form with this level of detail and an assessor comes by, the way in which rental arrangements work it is so volatile that is information changes in the twinkling of an eye. And if an assessor comes and recognizes that the information specified here is not in keeping with what is seen then that person is liable. But the information content here is volatile.

So how it is are we going to prescribe a penalty for wrong information when the information that is being requested can change quickly? And I do not agree with the level of details that is required here. All you need is average annual income for which the property earns. And I think around that you will be able to attract the value.

So, Mr. Vice-President, in closing, I have demonstrated that multiple valuation techniques are being presented here as the method of valuation. In the law there is no area of the law that specifies under which condition a valuation technique would be used. If it is that there is, then we need to say so. If it is that there are conflicting values arrive or derive when multiple techniques are used, we need to say which one and which one would be used and we need to inform the owner of the property as to which technique was used, and why that technique was used. If it is we want to keep in consistency with the way this law is across the world, we will specify or we will get to the place of one valuation technique which is the one that I really prescribe.

Get to the place of a single valuation technique across the board and probably you can specify if this does not occur, well then the Commissioner can use another technique so that he or she may arrive at that value. But multiple techniques being used at the whim and fancy of a Commissioner when no conditions are prescribed, I really object to that. I have demonstrated that there is some element of contradiction between the information on the website of the Valuation Division, specifying annual rental value, as well as clause 5 which is saying multiple valuation techniques. I ask that this be clarified because in my mind it creates confusion.

Multiple techniques create chaos and that was demonstrated in clause 6 of the Bill which pertains to the minimum threshold value on minimum value. If you

are using multiple techniques you cannot then specify a minimum value on one technique; it has to be consistent across the board.

With respect to the Valuation Tribunal, I do not support the Ministry of Finance being the adjudicator on an objection of a valuation produced by the Ministry of Finance. [*Desk thumping*] And with respect to Schedule II, I think that the information under section 1 and 2 is lacking so as to define the land and give more details of the plot of land being valued. But sections 3 to 7, I believe that the information requirement is overbearing and the way in which the environment of rental arrangement is quite volatile and therefore the owner of the property cannot be held accountable for if there are changes to this form when it is done.

And my last point is I do ask for the ability to inform the Commissioner of changes of valuations due to impairment be allowed and facilitated in this legislation. Mr. Vice-President, I thank you. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): [*Desk thumping*] Thank you, Mr. Vice-President. I had not intended on being in the Senate today but whilst at my office, I tuned in to my learned colleague Sen. Mark who in his very effusive contribution made certain observations which I felt compelled to answer on the floor of the honourable Senate and I thank you for the opportunity to allow me here.

I have listened with great interest to the contribution of my learned colleague Sen. Shrikissoon who is beginning to sound more and more like a distinguished lawyer, I must say, because his argument was cogent and compelling from his perspective, and certainly does provide a lot of food for thought which I hope to address in the course of my contribution.

Essentially, Mr. Vice-President. I wish to focus on two aspects of contribution solely today. Regrettably, we are debating the Valuation of Land Act

and the amendments proposed, divorced from the natural associative logical connection to the property tax amendments. [*Desk thumping*] Unfortunately, that is by the sole discretion of the Opposition having said no to the joint debate of the two purposes. But the artificiality which is created is evidenced by the very line of enquiry that Sen. Shrikissoon just gave. Because 99 per cent of the answers required to be offered to Sen. Shrikissoon arise in the course of the next debate which is on the property tax amendments.

[MADAM PRESIDENT *in the Chair*]

So, unfortunately we are compelled to engage in an artificiality and for that reason, Mr. Vice-President and Madam President, it now causes a degree of complication. But c'est la vie. According to the Opposition let us go to Joint Select Committee this is draconian, this is the Government out for you, you cannot hide, they are coming for you, war can be created, rebellion can be created, do not mess with a man's right to religion, do not mess with his property, this is dire, we will meet you in another place. The usual histrionics demonstrated by my learned colleagues opposite have occupied the front and centre stage of this debate. And so, it is much like the recurring decimal.

Madam President, let me make this abundantly clear, in first answer to the main issue. The main issues, sorry, arising are, one, the constitution of the appellate functionality against decisions of the Commissioner of Valuations which this Bill proposes in clause 15 to have in the context of a tribunal. Two members having spoken indicate that there is discomfort in the use of a tribunal; they allege, Sen. Mark's squarely has said it is a breach of the separation-of-powers principle and that it is draconian and without precedent. Sen. Shrikissoon has coloured that argument somewhat by saying that one ought not to be in the position where the Ministry of Finance as one entity, on the left hand conducts valuations, and on the

right hand considers appeals on those valuations and I will address that.

The second limb which needs to be answered are the questions that Sen. Shrikissoon has just laid about, which I just indicated it is artificial to try and offer an explanation to those until we come to the next debate because it really is in the property tax that we make sense of some of the submissions that my learned colleague has raised.

So, let us deal with the starting point. Sen. Mark made a quite interesting submission. He said that this Government was doing something which his Bench could not support. Sen. Mark gave the impression that this Government is implementing something which is so draconian that it could never see the light of day under a UNC-led administration. But, I must therefore refer to Sen. Mark to the *Hansard* of the 9th of September, 2013. Under the Appropriation (Financial Year 2014) Bill, 2013, the contribution of Sen. Larry Howai, and I quote from page 27:

“A land and building tax regime is a key pillar in all modern tax systems. Recurrent land and building taxes meet all the conditions of a good and fair tax. The backbone of a successful land and building tax is the proper valuation of properties within a transparent framework. This will require the property rolls being brought up to date...I propose...”

This is Sen. Larry Howai, Minister of Finance under the leadership of the Member for Siparia, Kamla Persad-Bissessar of Senior Counsel under a UNC government, Larry Howai says this.

“I propose to phase in these taxes over the period 2014 – 2017 during which time the properties will be valued and consultations will be held with all stakeholders.”

He goes on to say:

“In phase 1”—and hear this—“and effective immediately...”

This is on the 9th of the 9th, 2013:

“In phase 1, and effective immediately, we shall commence valuations of all industrial land, including plant and machinery, whether housed or unhoused with a view to implement this tax by July 01, 2014. In phase 2, we will impose a tax on commercial properties and in phase 3 we will impose a tax on agricultural land and on residential properties with a deductible allowance to provide relief to certain agricultural landowners and low-income” — tax — “homeowners.”

Madam President, this is the Cabinet-approved statement by the UNC Minister of Finance on the 9th of September, 2013, and I remind the country of this statement not for the purpose of saying “they said so”, but anchoring it on to the rationality of the debate, and quite startling on the back of the submission made by my learned colleague Sen. Mark.

You see, when Sen. Howai, UNC Minister of Finance, said that the implementation will begin and it is on the valuation of lands, Madam President, it is on the utilization of the Valuation of Land Act as amended in 2009. And, therefore, to hear Sen. Mark engage in histrionics, engage in a submission of shouting and yelling about a lack of proportionality and lack of constitutionality. How does one take Sen. Mark and the UNC seriously, when for 2013, 2014, 2015, 2016 and 2017, as their Cabinet-approved statement made it, they were implementing the property tax on the basis of the Valuation of Land Act, 2009 as it stood amended? [*Desk thumping*]

It is a ridiculous submission, Madam President, it is embarrassing for so senior a legislator as my dear friend Sen. Mark to come to the Senate today to now pour scorn on something which was implemented by the UNC as the Government of Trinidad and Tobago.

12.30 p.m.

So let us start there. Let us get to the appellate function. You see, it cross threads upon the submissions made by Sen. Shrikissoon and that made by Sen. Mark. Sen. Mark's submission—his submission, not he. I have described the submission as a ridiculous submission and an embarrassing one, but let us deal with the appellate function.

Sen. Shrikisson raised quite an interesting question. How palatable, how proportionate, I would add, is it for the Valuations Division which sits under the Ministry of Finance, and the Appeal Tribunal which would sit under the Ministry of Finance, to be engaged in this process, and I wish to point this out. First of all, there are umpteen examples in the existing laws of Trinidad and Tobago where tribunals of this type, appointed by ministerial function, exist and function in exactly the same scenario in which my learned colleagues have questioned this construction in clause 15 of this Bill.

Let me refer my learned colleagues to the Mental Health Act, Chap. 28:02, where:

“(1) A Psychiatric Hospital Tribunal...is established for the purposes of this Act.

(2) The Tribunal shall consist of the Chief Medical Officer, the Chief Magistrate and three medical practitioners who shall be appointed by the Minister from among persons recommended by the Medical Board.”

Two, the Emergency Ambulance Services and Emergency Medical Personnel Act, Chap. 29:02, section 31 of that establishes the Appeal Committee.

“The Minister shall appoint a committee to be known as the Appeal Committee to review any decision to—

- (a) refuse;
- (b) suspend; or

(c) revoke,
a licence.”

And it goes on.

The Civil Aviation Act, Chap. 49:03, the appellate tribunal is functioned under section 42 of that Act, subject to subsection (2) and it goes on, and then it creates subsection (3):

“(3) An appeal from a decision of the Board shall lie to an independent tribunal, appointed by the Minister from time to time and constituted in accordance with subsection 4.”

Four, the Electricity Inspection Act Chap. 54:72, again, there is an appeal function.

“Questions for decision of Chief Inspector, subject to appeal to Minister”

And it says, subsection (3) of section 12:

“The subject matter of any such appeal shall be referred by the Minister to a Board consisting of such persons of electrical or other special skill and experience as the Minister shall appoint...”

The Architecture Profession Act, Chap. 90:02, again, appeal tribunal set up under section 15 by the tribunal appointment coming solely from the Minister. So these are examples of the existing law.

Let us go deeper. Let us say for a moment that my learned colleagues argument that this concerns property—that most sacred thing to most people, that essential element of wealth to family and to individuality, that which can be passed on from generation to generation—because of that subject matter being such as it is, let us look at the issue of the Minister appointing these functions, and I want to turn to guidance offered from the appellate courts of Trinidad and Tobago. I would like to point out, if we look to the clause that is under discussion—and that

is clause 15 of the Bill—we are inserting a new Part IIIA, the Valuation Tribunal. In the new section 25A as it is to be inserted into the parent Act:

“There is...a tribunal for the purpose of hearing appeals from decisions of the Commissioner”

That is 25A. The tribunal shall consist of a chairperson, an attorney-at-law, et cetera, two other persons, wide knowledge and experience.

“(3) The members of the Valuation Tribunal shall be appointed by the Minister.”

Let us go further. We then go in the new 25B to suspension or removal of member of the Valuation Tribunal, and I dare say that this is nothing more than an expressed observation of the ability to appoint. He who has the ability to appoint has the ability to revoke appointments, and that is contained in the Interpretation Act, and that is what section 25B brings to life.

We provide for the resignation of a member in 25C, vacancy of office in 25D, decisions of the tribunal in 25E by a majority of members present. We provide for immunity of members other than for bad faith, if I could put it that way, and then we get to functions of the Valuation Tribunal.

“The Valuation Tribunal shall—

(a) hear all appeals raised under this Act or any other written law in respect of the decisions of the Commissioner;”

And then it prescribes an approach which is similar to the Civil Proceedings Rules where one engages in dispute resolution or amicable settlement, if possible, again, coinciding with the overriding objective expressed in the Civil Proceedings Rules 1998, as it has been amended and applied by our courts now for a considerable length of time. But it provides specifically, in the new 25G, that:

“(2) The Minister shall not give directions to the Valuation Tribunal

in respect of any particular application or proceeding before the Valuation Tribunal or a direction that would derogate from the duty of the Valuation Tribunal to act judicially.”

And I want to say that that is quite an exceptional clause in this law which does not find expressed statement in other laws of similar type, including those which I have just referred to, as standing examples of tribunals and appellate bodies appointed solely by Ministers.

“(3) The Valuation Tribunal may, on its own initiative or on the application of a party”—that is any party before the tribunal—“refer a question of law arising in a proceeding before it for determination by the High Court.”

So, in Sen. Shrikissoon’s construct, the inappropriateness being raised as a question by the learned Senator of having a division of, as he put it—“the Ministry of Finance left hand referring to right hand”—well, that would be inappropriate if that was the end of the story. But the end of the story, so expressed in the new 25G, is that the story does not end at the tribunal. The tribunal is specifically subject to the interrogation and involvement of the High Court. And this is very different from what prevailed under the utilization of the Tax Appeal Board under the 2009 amendments.

You see, the Tax Appeal Board, you did not go to the High Court after the Tax Appeal Board. You went straight to the Court of Appeal. We are permitting the move from tribunal to High Court, to Court of Appeal and to Privy Council. And, of course, the ability to appeal a decision of the High Court to the Court of Appeal is grounded in the Supreme Court Judicature Act as an inherent functionality of the court, of the Supreme Court Judicature and, therefore, we are widening the scope of appellate functions by going from the appeal tribunal to the

High Court, [*Desk thumping*] to the Court of Appeal, [*Desk thumping*] to the Privy Council. So that is not the end of the story. I agree there ought to be odium if it is that the tribunal was left hand to right hand and full stop, but that is not the case so expressed in the law.

We then go on to treat with questions of law arising out of proceedings referred to the High Court, et cetera. We go down to the powers of the Valuation Tribunal. We then go—and that is in the new 25H—to the procedures of the Valuation Tribunal, 25I, where they can actually have their new process. But, Madam President, we do not need to stop there. Let us go to the jurisprudence.

When we go to the jurisprudence, Madam President, the first fact is to be found in a very persuasive judgment. This is Civil Appeal No. P129 of 2012. It is the matter of *Paul Lai—L-A-I—v the Attorney General*. The panel was Madam Justice Paula-Mae Weekes, Justice of Appeal; Madam Justice Alice Yorke-Soo Hon; Justice of Appeal and Mr. Justice Prakash Moosai, Justice of Appeal. The appearances were, interestingly, for the respondent, the Attorney General, Mr. Russel Martineau, Mr. Gerald Ramdeen and Ms. Ramsook on behalf of the respondent, and the arguments coming out of the court found favour in the judgment—and this is a very instructive piece of jurisprudence, Madam President, delivered on the 9th of December, 2014.

In it, Madam President, it is incumbent to put the following on the record, to lay any concerns that my learned colleagues ought to have or harbour or wish to express on this particular law. This judgment deals conclusively with the propriety of having specialist tribunals which are not constructed as specialist courts with the same degree of protection as courts enjoy. You see, the odium in a tribunal, which is other than a tribunal appointed in usual judicial function and capacity, is the allegation that the tribunal may somehow become an army or an executing agent

for some political figure, the Minister. That was the essential argument in *R v Hinds*, and in the *R v Hinds* dicta, the courts warned that the separation of powers principle was genuine, and that bodies should not be extensions of ministerial or political power and political appointees.

But in this particular judgment—there is seminal judgment I might say—the judgment was delivered by Mr. Justice Moosai and all judges concurred with the judgment. In it we start off with—the square question was the constitutionality, separation of powers and independence of the Judiciary. That square question was one of five questions asked in this particular point. And they were dealing in this case of Paul Lai, with appointment by the Cabinet, by a Minister, by an Executive arm of persons to function in the Industrial Court.

Because under the Industrial Court legislation we saw that the power to appoint the members to the Industrial Court was the power of the Cabinet, and falling for consideration here, the first thing that I asked hon. Members to note, is that the concept of separation of powers is very clear. It is not a cast in stone—left hand and right hand and middle body ought not to talk to each other. In fact, it is the exact opposite.

In treating with the separation of powers principle, the learned Justice of Appeal, Mr. Justice Moosai, went into the fact that there is—under the consideration of constitutionality and separation of powers and independence of the Judiciary, including security of tenure—in looking at the position of the separation of powers, the learned judge says, yes it is axiomatic that the doctrine of separation of powers is a basic feature of our Constitution. That is to be found at page 16 of the judgment, at paragraph 42. He then went on to look at the judgment in *Hinds v the Queen* which I have just referred to. He looked at the leading judgement of *Liyanage v the Queen*, which is the classic case, again, on separation

of powers and ad hominem legislation, and he went on to say this at paragraph 44, at page 18 of the judgment, and permit me to quote:

“Even though the doctrine speaks to the separation of powers, it has no rigid and precise boundaries. Rather the efficient functioning of our democracy, as envisaged by the constitution, requires that there be a symbiotic relationship among the three organs of the State. Accordingly, there must, as a matter of practical and essential expediency, of necessity in several cases be a degree of overlap.”

And he went on to quote the case of the *Director of Public Persecution v Cooper*.

The learned judge went on to recite the power of the Suratt judgment, and the Suratt judgment is landmark in our jurisdiction because it says, categorically, there is no absolute right to anything, including enshrined rights. It is the judgment of Baroness Hale which every government has hinged its argument upon in treating with the derogation of what is expressed as section 4 and section 5 rights of the Constitution.

The learned judge went on to note that the use of tribunals, as for instance in the Suratt case, was not such that you had to have an exact replica of what protection exists for judges in the High Court setting where there is a constitutional protection and a Judicial and Legal Service Commission and no Cabinet or ministerial appointment.

The learned judge went on to note that it is an accepted feature that there are specialist bodies, which are called into operation and which effectively have constitutional muster. Because society has evolved such that, the nature of the administration of justice, is better delivered by lesser entities, tribunal entities, and not necessarily by putting everything in a court of law, everything in a court of superior record, everything in a functionality with protection of security of tenure

by Judicial and Legal Service Commission or Public Service Commission.

And the judgment goes on to say, that—and this is quite interesting, at paragraph 51:

“However, this is not a case where the parties are contending that the legislature sought, as was in the case of Hinds, to establish a new court which effectively usurped the existing jurisdiction of the High Court.”

And that applies here. This appellate function is not a new court. We are not seeking to usurp the functions of a High Court protection, therefore, we do not need the constitutional construction of High Court protection as we find in our laws, and in our supreme law in particular. It goes on to say at paragraph 56:

“Certainly, the development of specialised courts such as the Industrial Court is neither prohibited nor uncommon. Similar specialist bodies within the jurisdiction include the Tax Appeal Board, Equal Opportunity Tribunal, and the Environmental Commission.”—and listen to this—“Specialised courts or tribunals are a feature of the legal systems of many countries, although their jurisdiction and function may vary widely. Such specialisation is capable of materially contributing to the efficiency of the administration of justice. Indeed, in *Suratt* Baroness Hale, writing for the majority, highlighted the demands being placed upon legal systems which may necessitate the appointment of persons other than judges of the High Court in the decision-making process.”

So, Madam President, we are squarely within the confines of the Court of Appeal’s recognition, the Privy Council’s recognition of the utilization and propriety of specialist tribunals. We are squarely within the acknowledgement that the existing laws provide for specialist bodies where it is entirely ministerial function, but what is the proportionality here? The proportionality here is that it

does not end, left hand to right hand. It is not division X of Ministry of Finance against division Y of Ministry of Finance. They are subjugated, they are subjected to the jurisdiction of the High Court, Court of Appeal and Privy Council.

So, most respectfully, I ask my learned colleagues to pay careful attention to the proportionality and the acceptability of specialist tribunals as exist in the current laws of Trinidad and Tobago, and exist within the fulminations of the highest Court of Appeal, the Privy Council; the Court of Appeal in Trinidad and Tobago and the good and common sense rationality. Madam President, may I ask what time I must end my full contribution?

Madam President: You are ending at one minute past one.

Hon F. Al-Rawi: That is the full time?

Madam President: Yes.

Hon. F. Al-Rawi: Much obliged, Ma'am. Madam President, permit me to move on to some of the observations made by Sen. Shrikissoon.

Sen. Shrikissoon: Hon. AG, would you give way?

Hon F. Al-Rawi: Yes, please.

Sen. Shrikissoon: Through you, Madam President. Hon. AG, I cannot follow the argument of the Suratt case because I am not in the field, but what I am saying, with respect to specialist tribunals, these are rarely mentioned, especially like in the 29:02 Act on emergency medical personnel, this deals with offences committed by a member of that body. So it is an internal arrangement between the body and a person who is licenced to court or performing in that area. What we are speaking of here is a property owner. We are speaking of the Ministry of Finance, we are speaking of the Valuation Division and an assessor performing a valuation and somebody who is external to the Ministry, which is the property owner, has an objection. So a specialist tribunal here may not necessarily be appropriate, because

it is a third party involved and not a person who is under the direct jurisdiction and supervision of the Ministry of Finance. If the assessor had performed, then fine.

Hon F. Al-Rawi: I thank my learned colleague for pointing the very argument. I went the second stage by saying, okay, let us look at the fact that this is a property right. That is where I started the analysis of Suratt—and the point is—so that was one of the laws where the comparator was an internal regulation, but the others are external. The point in Suratt is, do you have a process? Is there due process? Is there a check and balance? Does this amendment by the insertion in clause 15 of this Bill, does this allow for due process? Can one articulate objections in an impartial arena?

If the allegation is that the tribunal cannot be impartial because the Minister has reached, then surely that argument fails when you get to the appellate function at the High Court, Court of Appeal and Privy Council. This is a matter for individuals' satisfaction, there will not be one point of agreement one way or the other. The point is that in terms of the threat by my learned colleague, Sen. Mark—the usual threat that we will meet you somewhere else—I am quite confident that in the context of a court being invited to consider whether this new tribunal is proportional within the understanding of section 13 of the Constitution, that this particular tribunal will be upheld as constitutional because of the due process and check and balance provision provided within the fulminations of the Suratt principle.

Sen. Shrikissoon: Would you allow me 15 seconds?

Hon F. Al-Rawi: Yes, please.

Sen. Shrikissoon: Thank you, hon. Attorney General. Madam President, through you. Hon. Attorney General, it may not be in my mind—and I stand to be corrected—in my mind, not because a due process of law is available to someone

post the Valuation Tribunal means that it is not subjective in the way in which it is structured. So I am saying, can we not correct it before it gets there?

Hon F. Al-Rawi: But I answer immediately by saying that any court is subjected to the same argument. That is why judges on High Court level, magisterial level and Court of Appeal level may be set aside by a superior court, because the argument of bias, unreasonableness or you just got it plain wrong can arise.

Look at what happened in the case of *Devant Maharaj v the Commissioner*, matter of application by *Devant Maharaj...v the Commissioner of Valuations and the Attorney General of Trinidad and Tobago*. This is CV No. 2017/01839. This particular case, which according to the judgment of Madam Justice Jacqueline Wilson, which was delivered in this particular matter. If you recall, there was ceremony, dance, “ramajay” when Mr. Justice Frank Seepersad came up with a determination that he would grant an injunction in these matters in favour of the claimant, Devant Maharaj, through his attorney-at-law Anand Ramlogan, there was widespread celebration by the UNC: “Victory for the people!”

Sen. Mark: Why are you shouting?

Hon. F. Al-Rawi: This judge overturned all of that. The Court of Appeal overturned all of that. So I am giving you a live example where a Court of Appeal rubbished a decision of an actual judge of the court, not on one occasion, but on four occasions in this matter. And I am giving you an example where a sister judge rubbished a decision that there was unconstitutionality in the same Valuation of Land Act. It is not to say that there would not be different points of view. The UNC was in widespread celebration on this—“Victory, victory, victory”—they claimed, four times shut down in the Court of Appeal and shut down in the High Court. So there will never be full agreement. Clearly, five losses for the UNC is a debilitating blow, but they may celebrate that. That is up to them. The court

shows that any court could get it wrong and it is the point of due process.

So, in this case here, we had a High Court Judge, Mr. Justice Seepersad. We had a decision of his overturned four times, because there were different appellate functions, and we had a sister judge, but that judge was appointed by the Judicial and Legal Service Commission. That judge was protected by tenure. That judge appeared to have gotten it wrong. Now, I make no pejorative mark to my learned friend—sorry, to my dear schoolmate, Mr. Justice Frank Seepersad, who I have great regard for, and I think he is an excellent judge. Let me put that on to the record.

Madam President: Yes. Attorney General, please, may I? Let us leave any sort of commendations or anything like that with respect to the Judiciary out of the debate.

Hon F. Al-Rawi: Sure, thank you. But I was compelled to and I am guided, because I did not want it to be taken and editorialized otherwise that I was depreciating the Judiciary. Thank you for your guidance, however, but I am safer on the record. So I am answering the point of no forum is entirely safe. The question is, is there due process? And there is due process. Why? Let us look at the volumetrics in this equation. Trinidad and Tobago is in the situation where—thanks to some terrible decisions by the last Government—our economy has been broken. Thanks to massively, nonsensical, radically insane, financial decisions [*Desk thumping*] our deferred taxation liability has ruined our economy from an oil and gas perspective where we expect revenue to return on our major contributor by the year 2024. And if it was not for the hon. Prime Minister sitting in England as he is now, treating with the recovery of revenue now to salvage our economy, we would have forever been scarred by the UNC. [*Desk thumping*] And in this situation, where the volumetrics is large, a tribunal is more nimble and able to take

care of the equation, and that is why we propose that it is proportionate to utilize a tribunal in this fashion. There are enough checks and balances, but let us go on to some other observations in the very short time left.

My learned colleague, Sen. Shrikissoon, raised the issue of what he viewed to be an inconsistency in the amendment clause to section 5 of the parent Act, and that would come about from clause 4. My learned colleague said that there needed to be one system of valuation, chose one—not capital value, not site value and annual rental value. My learned colleague went on to an examination of other jurisdictions and pointed to them having one but, most respectfully, we are not other jurisdictions, and we are now implementing a system of property tax onto a system of land ownership which is not clear.

This Government is, for the first time, clearing the land administration system. There are four Bills on this Order Paper and without anticipating them, which would demonstrate what I am saying conclusively, because other jurisdictions deal with a formalized well-known system and operative system of land management. Our system requires multiple values, but I draw this even further. The 2009 amendments to the Valuation of Land Act had site value and improved value, had capital value and annual rental value. All that we did was to split them into (a), (b) and (c). They were contained in (a) and (b). That is why I asked my learned colleague to point to the section where we are making this amendment—

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

Hon F. Al-Rawi: Thank you.—which caused such concern for my learned colleague. So this law has stood since 2009, I need hear nothing from Sen. Mark and his colleagues, because they implemented it. So anything that they say now is hot and cold, approbate and reprobate and to be discarded as a ridiculous

submission. [*Desk thumping*] Outright discarded. But when I hear my learned colleague ask Sen. Shrikissoon about these positions, I point out that the 2009 legislation had all three, and the rationale for all three is that when one disaggregates industrial, agricultural, commercial and residential, there is a need for different treatment.

My learned colleague, Sen. Shrikissoon asked if you have a base value for land at 18,000—a base value—where is your base value for the other sections. Most respectfully, that is apples and oranges. Land always has value. Property which is not land, may not have value. It came out of the argument of my learned colleague, Sen. Shrikissoon, where the written down value may be brought to naught on an accounting basis and, therefore, you cannot ascribe a de minimis value for a written down value on an accounting basis for plant and machinery, because it may be reduced to zero, whereas land can never be reduced to zero because it has residual value. So that argument ends there, quite respectfully.

There is a rational reason for having the disaggregated positions. It is to allow for us to treat with the different elements correctly. Now, my learned colleague asked, again, where does one treat with improvements, et cetera, the revaluation, and I point my learned colleague to section 12 of the parent Act, section 13 of the parent Act, section 16 of the parent Act, section 24 of the parent Act, but in section 16, in particular, which talks for the purposes of valuation—and the purposes of valuation are set out clearly. My learned colleague, Sen. Shrikissoon, complained about the Schedule and asked for more information, but I must refer my colleague to the Schedule, particularly, to that which he is looking for, and that is to be found at page 13 of the Bill.

When we have in the general purposes at (e) at page 13:

“What is the Registered Deed or Certificate of Title registration number?”

That reference to that number provides the pot of information that my learned colleague is asking for—land description, boundaries topography, description of site. That is contained in ancillary documentation which this form brings to life. So it is there.

Now, my learned colleague asked something quite particularly. Why ask for anything other than the total average income? Why ask for the tenant and this and that and then gave the example of not asking a fridge seller, how many fridges were delivered, how many fridges were delivered, et cetera, et cetera. But the truth is, in this country where there is massive corruption in taxation, massive tax evasion, there is an obligation and prudence to check the left hand and the right hand. You ask the person who is declaring, what the position is, and then you double-check them by having the tenants interrogated as well. It is nothing more than a system of transparency where you know that there is corruption in the system. In our system we cannot rely upon individual disclosures because they may not tell you the truth. As I have one minute, I would answer the last question by my learned colleague, Sen. Shrikissoon.

Sen. Shrikissoon asked why it is that we have to have a condescension for further information particulars. It is, again, on the proportionality basis. It is on the need to double-check basis; it is on the need to have fairness and transparency in the system; it is subjected to a due process argument; it is subjected to a process of appeal and, most respectfully, in the minute left, this is proportionate law.

1.00 p.m.

It is high time that the people of this country saw the receipt of moneys for the performance of works. Every pothole has to be repaired has a cost. Every pavement has a cost. Garbage collection has a cost. Our society, as the Jamaican Prime Minister once said, reputed, it takes cash to care, and if you cannot collect

your cash to care, to expend in a transparent system where there is process and rights, then, most respectfully, we are not hitting the mark. The fears of the population in relation to property tax will come to naught when it is implemented because the reasonableness will be demonstrated, Madam President, and I thank you for the opportunity to contribute. [*Desk thumping*]

Madam President: Hon. Senators, at this juncture we will suspend the sitting, and we will resume at 10 minutes past 2.00.

1.01 p.m.: *Sitting suspended.*

2.10 p.m.: *Sitting resumed.*

Mr. Vice-President: Sen. Hosein. [*Desk thumping*]

Sen. Saddam Hosein: Thank you very much, Mr. Vice-President, for allowing me the privilege to join this debate on this very important piece of legislation that is about to be amended by this Government, the Valuation of Land (Amdt.) Bill, 2018, where it seeks to propose various changes to the existing parent law, the Valuation of Land Act. Mr. Vice-President, the Bill before us is about 10 pages long and 19 clauses, but this Bill has very serious and dangerous effects when we look at it. It gives the Minister of Finance unfettered and autonomous powers. Mr. Vice-President, it directly affects or interferes with the right to enjoy property, it determines the amount of money that you will be liable to pay on taxation of your property that the hard-working persons of Trinidad and Tobago worked their entire life to construct so that they can enjoy.

The Bill, Mr. Vice-President, lacks a proper analysis of the social, the political, the geographical and the economic climate of Trinidad and Tobago. And when I listened to the Minister in the Ministry of Finance when she piloted this Bill, I was very unenthused by the presentation, because the Minister, in my opinion, was unable to properly prosecute and defend the measures that are being

introduced in this amendment Bill. [*Desk thumping*] So much so, Mr. Vice-President, that the Attorney General—and I understand he has a very busy schedule—left his office to come here in order to defend the proposals by this Government. So it says a lot. It says a lot about the confidence that the Attorney General has in his colleagues to properly defend this amendment Bill. The Attorney General, the reason why he was here this morning, or this afternoon in fact, was because he did not get a chance to debate this Bill where it came from, because that debate was shut down by this PNM Government. [*Desk thumping*] It did not give the Opposition a chance to properly prosecute and express their positions on this Bill in the Lower House.

So, Mr. Vice-President, today I would like to speak for the members of Siparia, and today I would like to speak for the members of Fyzabad, and those of San Fernando East whose representatives were not allowed to voice their concerns in the House of Representatives. [*Desk thumping*] But one thing I must commend this independent, honourable Parliament for, is that the Attorney General made some comments about the Judiciary, and, Madam President, I must commend her for her ruling because she understands the separation of powers—Madam President, the hon. Madam President. [*Interruption*] I will address the Chair, Ma'am. I am not addressing you. But, Mr. Vice-President, there is a word that was being used throughout this entire debate. It was being thrown about, and that word is, independent. I went to the *Oxford Dictionary*, I went to get the dictionary definition of what independent means, because the Attorney General found it fit to find himself here to defend a tribunal appointed by a Minister and deem it independent. [*Desk thumping*]

Mr. Vice-President, I went to law school. I was only called to the Bar about four years now and I thought that I could have learnt from the Attorney General the

doctrine of separation of powers, but it seems that I may now have to fulfil his duty to edify the population of Trinidad and Tobago and this House of what the separation of powers actually means. [*Desk thumping*] Mr. Vice-President, the dictionary definition of independent, according to the *Oxford Dictionary*, it means:

“Free from outside control; not subject to another’s authority.”

That is the bottom line. So when you have a Minister of Finance who is appointing a tribunal, how can you say that is free from outside control? How can you say that is not subject to another’s authority? Let me go into the specific clauses which establishes the Valuation Tribunal. It adds a new section to the Bill, section 25A, and it says that:

“The Valuation Tribunal shall consist of—

a Chairperson who shall be an Attorney-at-law with ten years or more experience as an Attorney-at-law;”

Now, I have no problem with that.

“two other persons, one of whom shall have wide knowledge and experience in the valuation of property.”

Now, I have an issue with that, I will come to that a little later, but the most alarming clause in this entire section is subsection (3):

“The members of the Valuation Tribunal shall be appointed by the Minister.”

Mr. Vice-President, how can that be an independent tribunal? But section 25A of the Bill, what it does, it removes the powers of the Tax Appeal Board, an independent board. According to the Tax Appeal Board, it has the same effect or the same status as a court of superior record. And for the population who is listening, a court of superior record is what we could deem the High Court. It is where a judge sits, an independent judge who is appointed by an independent

service commission, the Judicial and Legal Service Commission. But who makes the appointment here, the Minister of Finance, a political appointee. And then when we look at the protection that members of the Tax Appeal Board are provided with, is that they can only be removed by whom, the Judicial and Legal Service Commission after thorough investigation and the processes involved there. And we know in this country how difficult it is to remove a judge. There is a case on this, the case of *Rees v Crane*, but in this case do you know who appoints, again, and I keep re-emphasizing this point, it is the Minister of Finance. But you know what the Minister of Finance can also do, he can suspend a member of the Valuation Tribunal, but according to the Interpretation Act of this country, when a person given the power of appointment, according to section 39 of that Act, they are also given the power to remove that person. They are giving the power to reinstate that person on his suspension or reappoint him on his removal, his resignation, the expiration of his office, or otherwise.

That person who appoints, he also has the power—this is very important, Mr. Vice-President—to fix or vary his remuneration, to withhold his remuneration in whole or in part during any period of suspension from office and to terminate his remuneration on his removal from office. So this begs the question, if someone files an objection with the Valuation Tribunal, and the political appointees sit in that tribunal and they do not make a decision that any Minister of Finance does not like, does it mean that the Minister of Finance now can suspend this person or withhold his remuneration? How can we say that this Valuation Tribunal is an independent body? [*Desk thumping*] That cannot be, Mr. Vice-President, in any civilized society with respect for democracy.

Now, when you look at the jurisdiction and the powers given to the Valuation Tribunal, do you know that this Valuation Tribunal exercises the exact

same function as the Tax Appeal Board? The Tax Appeal Board, Mr. Vice-President, is a court of superior record, yet a valuation tribunal that is going to be set up by a Minister of Finance is exercising the same power of that board, inclusive of additional powers. It also allows the tribunal that they can correct valuation rules that land should not be included in the valuation rules, and lands that are omitted to reinstate those lands, and, Mr. Vice-President, we on this side are objecting strongly to any appointment to an independent judicial body by any political appointee. [*Desk thumping*] We simply do not trust them, and the citizens of this country do not trust the Government, because you are not assisting the people, you are not sharing the burden. You are burdening the citizens of this country with taxes after taxes, after taxes, and this valuation Bill is what lays the foundation for the dreaded property tax. But just like in 2009—just like in 2009 when the citizens of this country axed the tax, they will axe the PNM. [*Desk thumping*] It is coming very soon.

But the Attorney General made a lot of song and dance about this celebrated case, *Hinds v The Queen*. It is one the most foundational cases with respect to the doctrine of separation of powers. And that is right, that case, it was a Privy Council decision whereby the Privy Council, they found that there must be separation of powers where there is respect for democracy in any civilized society, so that the Executive exercises executive powers, that the Judiciary exercises judicial powers, and that the Legislature exercises legislative functions. But, you know, in that case of *Hinds v The Queen*, do you know that in that case they examined also something called the Revenue Court in Jamaica? You know what they had to say about that, Mr. Vice-President, the Revenue Court is the same as the Tax Appeal Board and is now the same as the Valuation Tribunal which exercises the same powers as the Tax Appeal Board. I would like to quote from

the case:

In Their Lordships view, however, it is the manifest intention of the Constitution that any person appointed to be a member of such a court—they are talking about the Revenue Court—should be appointed in the same manner and entitled to the same security of tenure as the holder of judicial office.

So, Mr. Vice-President, are we departing from the stare decisis as set out in the Privy Council in the case of *Hinds v The Queen*? Are we, Mr. Vice-President? Are we interfering with citizen's constitutional rights to enjoyment of property and not to be deprived thereof by due process of the law? Because if you do not pay your taxes what can they do, they can exercise powers in order to take your property. Mr. Vice-President, how can this be protecting our right to equality before the law and protection of the law? How can we be protected from the right of the individual to equality of treatment from any public authority in the exercise of its functions, or the right of a fair hearing? Having a political appointed tribunal can never protect our constitutional rights as guaranteed by sections 4 and 5. [*Desk thumping*]

Mr. Vice-President, the Attorney General, he also quoted a case, a Court of Appeal decision, No. P129 of 2012, *Paul Lai v The Attorney General of Trinidad and Tobago*, and the Attorney General quoted from the case, and I understood that he did not give this Senate the full picture of the decision of that case. So I felt incumbent, Mr. Vice-President, to now bring to light what the case actually said, and the facts are that there was an issue regarding whether or not there was a breach of the doctrine of separation of powers regarding Cabinet appointing Industrial Court judges, because although it says the President appoints the judges, it is really a decision of Cabinet to appoint these Industrial Court judges. But, Mr.

Vice-President, the court said that it was not in breach of the doctrine of separation of powers, and they gave a reason why, and the reason is—and I will quote at paragraph 99 of the case, it says:

“The institutional independence of the court is such that it can adequately perform its basic judicial function without interference by the executive with its adjudicative role. Industrial Court judges also have considerable security of tenure and financial security while they are actually carrying out their judicial functions.”

Are we seeing that protection being given to members of the tribunal in this case? Do they have security of tenure? No. They can be removed by the Minister whenever, however, and—[*Interruption*]

Hon. Senator: At his pleasure.

Sen. S. Hosein:—at his pleasure. Thank you. Where is their financial security, Mr. Vice-President? The case goes on to say:

“...judges enjoy a fixed tenure that is secure against interference by the executive. Their terms and conditions...”—are concretized.

Mr. Vice-President, that is the crux of the decision of that case. It is not that the Cabinet is allowed to appoint these judges, the crux of the case is regarding the protection and the independence and insularity from the Executive that these judges enjoy. That is why it was not in breach of the doctrine of separation of powers, but in this case there is no protection, there is no security of tenure, so how can we say that this is not a breach of the doctrine of separation of powers?

Then the AG went on to quote the case of Suratt. I know that is one of the AG’s favourite cases, right, and, you know, Suratt also discuss the Tax Appeal Board, Mr. Vice-President. [*Interruption*]

Hon. Senator: “Buh he ent talk about dat.”

Sen. S. Hosein: No, no, he did not.

Sen. Mark: Conveniently.

Sen. S. Hosein: Yeah. Suratt talks about the Tax Appeal Board, and you know what they said about it, the members of the well-respected Tax Appeal Board also constituted under an ordinary act of Parliament who might be told to exercise a jurisdiction where independence of Government was of particular importance. The tribunal chairman is given a status and terms of condition of office which are far superior to those of magistrates. They were comparing magistrates to judges. It is very difficult to say that they are not a sufficient guarantee of his or his independence of local pressure. Where is the independence and the insularity from pressure by the Executive to the Valuation Tribunal? The lay assessors are much well protected. Their status is not unlike ordinary members of the Tax Appeal Board. They say for no less than three years but eligible for appointment. Their appointment may be terminated for cause by whom, the President, on the recommendation of the chairman, but their position on the tribunal is not as seriously to call in question their independence.

So you know what we did with the Bill, Mr. Vice-President? You know what the Government proposes to do, remove this independent Tax Appeal Board, and according to the Privy Council, they regarded them as a well-respected Tax Appeal Board to give this power now to a ministerial-appointed tribunal to exercise judicial functions. That is an insult to the decision of the Privy Council. [*Desk thumping*] When you look at different jurisdictions all over the world—I pulled from Bermuda, they have a similar tribunal that deals with valuation, and Bermuda, the panel of members of the tribunal are five members but no greater than nine. And do you know who appoints them, the Governor General, and they are removed by the Governor General's pleasure, protection from the Executive.

Barbados, they have the Administrative Appeal Tribunal. Do you know who appoints this tribunal? The tribunal is appointed in the same manner as a judge in Barbados by their JLSC. That is the protection given to this tribunal, Mr. Vice-President, but yet this Government now wants to come and erode the independence of any judicial body in this country. *[Interruption]*

Sen. Mark: They want to establish a dictatorship. That is what they want to do.

Sen. S. Hosein: Mr. Vice-President, the Attorney General, he went on to say, we have tribunals in Trinidad and Tobago that Ministers appoint these tribunals, but I want to make a distinction. He looked at the Electricity (Inspection) Act, and section 12 of that Act, it allows the Minister—in fact, where there is a decision that the Chief Inspector makes, an appeal lies on the Minister. Mr. Vice-President, you know what that decision is, if there is a little dispute between the person who owns the property regarding some installation or apparatus of some electrical fittings on a property, that is where the Minister's power lies. And the Attorney General wants to come and compare an appeal like that to an appeal on your property where the taxes are involved, and they can actually seize your property when you are unable to pay your taxes. *[Desk thumping]* He quoted from the Architecture Profession Act, Chap. 90:02, and he said that, yes, the Minister can actually at section 15 of that Act the Minister can establish an appeals tribunal. Do you know what that appeals tribunal can determine, whether or not somebody can be registered as an architect or not. How can we compare the right to register as an architect to that of setting a value to your property? *[Desk thumping]*

Mr. Vice-President, I am appalled. And then also the Attorney General went on to make another song and dance about the former Minister of Finance, Mr. Larry Howai, but let me tell you something, Mr. Vice-President—

Mr. Vice-President: I am hearing a lot of running commentary, I am sure the

Senator does not need help, because when you all are having the running commentary I cannot hear him properly. Senator, continue.

Sen. Mark: I do apologize.

Sen. S. Hosein: Mr. Vice-President, and the Attorney General did not fulsomely read what Mr. Larry Howai said in the *Hansard*. The date is the 9th of the ninth, 2013, Appropriation (Financial Year 2014) Bill, 2013. Sen. Larry Howai said—he never said property tax, Mr. Vice-President, he said:

“a land and building tax regime is a key pillar in all modern tax systems.”

[*Desk thumping*] [*Interruption*]

Hon. Senator: That is the original scheme.

Sen. Mark: Different.

Sen. Gopee-Scoon: Same thing.

Sen. S. Hosein: It is not the same thing, you are misconceived. You are misconceived. [*Crosstalk*] Mr. Vice-President, can I have your protection, please. Mr. Vice-President, that is what was said, but, you know what a responsible Minister of Finance also said, he said:

“This will require the property rolls being brought up to date. I propose to phase in these taxes over the period 2014 – 2017...which time the properties will be valued and consultations will be held with all stakeholders.”

[*Desk thumping*] Consultations, Mr. Vice-President. This PNM Government is contagious to consultation, contagious, that is what they are. [*Desk thumping*]

Sen. Ameen: They are allergic.

Sen. S. Hosein: They are allergic. They are allergic, sorry, they are allergic. [*Crosstalk and laughter*]

Sen. Ameen: He made a mistake, he said allergic. He said allergic. [*Crosstalk*]

Sen. S. Hosein: Sorry, Mr. Vice-President. It might reach The Rundown, who

knows. [*Laughter*] Sorry. That is the excitement of this Chamber, but let me not be distracted by the Members opposite. [*Crosstalk*] Mr. Vice-President, they have not—

Mr. Vice-President: It is actually getting a little loud, I was waiting for it to calm down a bit, given statements of the Senator, but I am just on my feet to allow the Chamber to return to semblance of silence so the Member could continue. Continue, Sen. Hosein.

Sen. S. Hosein: Thank you. Mr. Vice-President, and what is very important is that when you are touching a man's property, especially his castle which is regarded as his home, consult with him. There is no consultation on this Bill, none whatsoever. [*Desk thumping*] And the Ministers opposite can grin and they can laugh how much they want but you are affecting poor people in this country, and this is serious business, and I feel that it is a disrespect to this House when you humour a very important Bill like this, Mr. Vice-President.

Sen. Mark: Yes, you just lost a big case in the court there. AG gone, you know, you resign—[*Interruption*]

Mr. Vice-President: Senator, okay, all right, sit.

Sen. Mark: I am sorry, Sir.

Mr. Vice-President: You are realizing what is happening, I have to keep rising to me feet to allow the Senator to be able to make his contribution, so what is going to happen now is that we are not going to have any crosstalk whatsoever. Continue, Sen. Hosein.

2.35 p.m.

Sen. S. Hosein: Mr. Vice-President, this brings me to a very important point where we drill down into the policy framework of the Bill. From my research, there are three different systems in which valuations of property can actually

happen. Firstly, in some jurisdictions they take the capital value and they calculate the property tax based on that, or they would look at the site value—which I will explain in a little while—or they can use the annual rental value.

In Trinidad and Tobago what we are doing in this case is actually using the annual rental value as the base in which to calculate the property tax. The capital value is the easiest one for any person who is going to pay their tax to understand, because what it means simply is, you are calculating your property tax based on the market value of your property. The site value is disaggregating the improvements on the land, so you value the house or the building as separate from the land. And with the annual rental value, it is based on the market value of what your property can be rented for nonetheless that it is actually not being rented currently.

Mr. Vice-President, when we look at these three different systems, there must be some rationale, there must be some sort of analysis of the social conditions or the economic climate, the geography of the area to determine which model is actually suited for Trinidad and Tobago. I will say from the outset that the annual rental value system is actually the most outdated system of valuation that they have.

While I was reading and doing my research I came across various positions, and one of the most important positions is that when you look at the annual rental value, an analysis should have been done on Trinidad and Tobago to determine whether or not the majority of the lands in Trinidad and Tobago are actually leasehold lands or whether they are freehold lands. Where the majority of lands are leasehold, it would mean that all of the lands now would be easier to assess an annual rental value. When the majority of the lands are freehold, it will actually be easier to impose a market value analysis, because it brings more clarity to the entire process, because this process right now is very clouded.

In this case, the Minister in the Ministry of Finance, and even the Minister of Finance in the other place, was not able to provide any sort of evidence, was not able to provide any analysis regarding whether or not the majority of lands in Trinidad and Tobago are freehold lands or leasehold lands, but yet we are proposing the annual rental value. So they did not do their proper investigations or proper analysis of the entire geographical area of Trinidad and Tobago, because this Bill also affects persons in Tobago. So had the Minister done his homework, or the Minister in the Ministry done her homework, she could have come here and defended this position, why we are actually recommending the annual rental value. This system is actually a copy and paste from 2009, and in 2009 we still did not get any answers of why the annual rental value was used in the first place.

Do you know, Mr. Vice-President, that this Government talks about reform and that they are coming here to transform Trinidad and Tobago. You campaigned in 2015 that Dr. Keith Rowley, the Member for Diego Martin West, is the doctor that would fix all the woes of this country, but yet we are still in more woes. We are in deeper waters than we were in 2015.

When you look at a paper that was done entitled, "Residential Property Tax Form in Northern Ireland: Impact Analysis and Spatial Redistribution", it says that in the domestic area of Northern Ireland they actually used the annual rental value from inception, but then they decided now to go with the market value analysis that I explained earlier on. Mr. Vice-President, what they found when they concluded their findings and their studies, was that when the market value analysis was actually used, it actually decreased the property tax that persons who lived in smaller lower value homes had to pay, whereas those who lived in very expensive homes their property tax would have increased. But what essentially was the reason for their policy shift was that they shifted the burden evenly and equitably.

In this case our taxes are not being distributed evenly or equitably, because you are imposing taxes haphazardly on the population of Trinidad and Tobago, without any form of analysis or any report being done in order to determine the conditions of Trinidad and Tobago.

But then you look at the Bill itself, and in this Bill you actually see that two systems are being used. First, you calculate lands that are occupied on the annual rental value, but then when you go to Schedule I of the Act it actually says that when you are calculating vacant lands you use a percentage of the capital value. So you are collecting data of site value, improved value, capital value and annual rental value.

Then when you look at Part B of the Schedule, it just says:

“Percentage to be applied to land with plant and machinery not housed in any building - 3%”.

Three per cent of what? Three per cent of site value, three per cent of capital value, three per cent of annual rental value? It does not say. Again I reiterate, a copy and paste Bill.

When you look at what happened in Jamaica, the Jamaican experience is that they have actually done their homework. They are now implementing their new property tax regime, they have already completed all of their valuations in 2013, four years prior to actually implementing their taxes. Now, you have not valued over 50 per cent of the properties in Trinidad and Tobago, yet you want to come and haphazardly impose those taxes and burden the citizens of Trinidad and Tobago. [*Desk thumping*] They are not ready to roll out this. Do you know how many issues that this Government will face when this tax is actually being implemented?

I want to move to the second Schedule of the Bill. When you look at the

second Schedule, this is actually the return required under section 6 of the Valuation of Land Act. When you look at the first section, it is personal information, there is no problem with that. The second area is general. It talks about where the property is located, which municipality, the address, whether or not you purchased the property for 24 months preceding the date of filling out the form, what is the purchase price actually paid. Now that startled me.

When any transaction takes place in this country where there is a conveyance of land, you have to pay stamp duty, and if a person does not account for the proper value of the land, then they are committing an offence. So how can you now come and say what is the exact value you paid for the land? That should have been done at the stage where the property was actually being assessed for stamp duty purposes. So, Mr. Vice-President, we are seeing all of the difficulties in the implementation of this property tax.

When you look at the third part of the VRF, this is the Valuation Return Form, it covers when a person actually rents their property. So if I am a land owner and I do not rent my property, then I stop filling out this form at part 2, because I do not use my building as a rental, so I do not have to fill out part 3, or part 4 or part 5, up until part 7. This form does not ask me how many rooms I have in my house. It does not ask you how big the house is, how much land the house is standing on. How are they going to properly assess any property on this form? So this is actually a deficient valuation return form that is being proposed by this Government. And if you cannot get the basic things like the forms right, then how are you going to implement the taxes? This brings into light serious concerns regarding the rolling out of this entire property tax system.

But there is one other issue that I would like to raise, and I did not hear anyone raise it as yet in the Senate. When your property is being assessed, it not

only affects your property tax, but it actually affects the water rates. Because under the WASA Act, the price that you pay for water, or the price that you pay for sewerage services, is directly determinate on what your property is assessed at. So what this means is that when they value your property for a higher price, it will now mean that your water rates go up, and your sewerage rates go up. So this property tax and this valuation of land, does not only affect the price you pay for property tax, but it is regarding the price you pay for water and sewerage services. So how much more shall we burden the citizens of Trinidad and Tobago with excessive taxes, Mr. Vice-President? This cannot be, and we on this side, we will fight to protect the citizens of Trinidad and Tobago. [*Desk thumping*] We will fight.

If I have to summarize this Bill, it is a way in which the Government is trying to get some fast money. But if they have not been spending in a reckless manner they would not have to—[*Interruption*]

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

Sen. S. Hosein: Thank you very much—they would not have to be in this position. If they did not have to settle suits for \$150,000, we will not have to pay property tax. Mr. Vice-President, the ordinary man on the street cannot pay this tax. I heard the Minister in the Ministry of Finance say that \$500 is a little bit of money, it is nothing. That hurt me, because you know why? While the People's Partnership Government was in Office, we gave every mother with a child, \$500 in a baby grant, because \$500 can buy baby milk. It could buy pampers, it can put food on the table, but to this Government, \$500 is nothing. My friend is forgetting the words of her honourable leader, the Prime Minister of this country, where he says \$100 is plenty. Now, you are going to actually impose thousands of dollars in taxes on the innocent people of this country, the hard-working people.

But I must say that when we use this assessment system of the annual rental value, do you know what it will do? It will actually dissuade persons from developing their property, because now they will understand that they will actually be liable to higher taxes. Because the more improvements you make on your property it would simply mean the more taxes you have to pay. It will stymie the construction industry in this country. No one will want to purchase property simply because of this tax. So I ask this government to please reconsider, withdraw this Bill, do not impose this onerous tax on the citizens of Trinidad and Tobago. [*Desk thumping*]

Mr. Vice-President, with these few words I would like to end my contribution.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President, for granting me this opportunity. It is always a pleasure coming after my colleague Sen. Shrikissoon, and to have heard my former colleagues on the Opposition Bench, Sen. Hosein and Sen. Mark.

Mr. Vice-President, I will hopefully not repeat what has been said before, because much has been said before. So I would like to focus on what was stated in clause 11 of the Bill, because what was stated here, in my mind, provides for me the crux of a justification for an amendment, which is, I suspect, being circulated now to colleagues in the Chamber.

Clause 11 indicates that citizens may file an objection in writing with the commissioner, that is the Commissioner of Valuation when:

“...the annual rental value of any land appearing in the Valuation Roll is incorrect...”

So the annual rental value is \$50,000 and the clerk may have entered \$500,000, so it is incorrect, or I am looking at clause 11 of the Bill, where:

“the annual rental value...is incorrect or unfair...”—or unfair, or unfair—
“having regard to other ...rental values therein;”

The question which arises is this, under what circumstances will an annual rental value be deemed by the owner/occupier to be unfair? It is not incorrect, because incorrect is a typographical error, it is a handwritten error, it is an error in communication, but a value that is unfair means that there is some subjectivity in valuation, which makes the value final, assessed by the Commissioner of Valuations, to be different from what the owner/occupier thinks it is. So, Mr. Vice-President, I ask myself really, what is value?

We are having a discussion on the land valuation Act, and we have not really spoken about this concept called “value”. Let me just raise the age old conundrum in economics, and that is, if water is so essential to life, how come its price on the market is so low in relation to diamonds which are not really essential to life but which are more items of adornment? How come a diamond will fetch a higher price than a bottle of water? Is it that diamond is more valuable than water? Of course when we pose the question in this way students of mine would know they have been subject to this conundrum in micro economic theory.

We saw that there are two values we are talking about: value in use, which is water; value in exchange, which is diamond. When we are looking at exchange value, that is value that is determined in the market place, we ask ourselves, how could a value which is determined in the market place be deemed to be unfair? Because the law specifically mentions “unfair”. And so we ask another hypothetical question. The question is this: supposed all of my wealth is not in land or in property, homes, or house and land or condominiums or real estate, but all my wealth is in gold, physical gold, and there is a tax rate on my holdings of gold of a fraction of a per cent on an annual basis, would anything about that be

unfair? The answer is no, because you simply go to the London Mercantile Exchange or the Chicago Mercantile Exchange today and you will find that the price of an ounce of gold in the market is \$1,350 and a half US. And we could take that price, multiply it by the ounces that the commissioner of gold evaluation says I have, and he could charge me the tax based on that. There is no inequity or irregularity there.

But, Mr. Vice-President, you see when we are dealing with the gold market and the fact that a price is available on an hourly or even a minute by minute basis, we are dealing with a peculiar market, the market for soybean and silver. When we are dealing with the property market, we are dealing with a market that is not perfect. A perfect market is one where there is a large number of buyers and sellers, and a frequent amount of trades, and that there is a continuum of activity in the market, and there is absolutely no question on anybody's mind as to what is the current price of wheat or gold or any of the commodities that we trade. But when we are dealing with property and we have to come to a valuation, the valuation is going to be based on a measure of subjectivity, because the property market does not have a transaction on properties with the volume and frequency that you see in other markets.

For example, take your home. It may very well be that the last time a property in your neighbourhood was sold was a decade ago, and that for the rest of the time there were no trades. People are living in the neighbourhood. As the Minister who piloted indicated, the hon. Minister of Finance, that a few years ago the property market was very buoyant. So that if we are to value a property in a locale, based upon a value, a market value, a value in exchange of a decade ago, there will be inequity because the current occupier will say that the property value that I have is different from what it traded 10 years ago, because of the changing

property values. Ten years ago it may have been high, today it is of course different. Based upon last trades, therefore, we will have some disputes. It is going to come to the amendment that I am proposing, and the Ministry of Finance usually considers my amendments seriously before they dispense with them.

But really when we are looking at capital values, it is not as easy to determine in the real estate market as one may assume, simply because of the infrequency of trades. When we have a commissioner of valuation who says, “Well, I feel that 10 years ago your home or land was sold for this amount, and it is maybe so now”, what I would like to know is, what is the formula or formulae which will influence his feelings? You see, unless I get that formula, what exactly are you using?

Understanding that valuations are inevitably going to have an element of subjectivity to them in this peculiar market, and I have not seen the formula, I have not seen what he is going to use, and it could very well be that the homeowner may say that the proper way to value my house, the capital value, is how much I paid for it when I purchased it 20 years ago. It may be \$800,000, and if you were to inflate it by the consumer price index that is fair, 5 per cent per annum over the last 20 years would bring it to a correct value. But if you were to add in depreciation—a measure that Sen. Shrikissoon has indicated on impairment value—if you were add in depreciation of 5 per cent on an annual basis to cancel out the inflation of 5 per cent, it may very well be that the homeowner is of the view that the value today upon which you are going to place any kind of taxation, or any other purpose, should be the purchase price I paid for my home 20 years ago. Who is to dispute that? How is the Commissioner of Valuations going to challenge that kind of logic?

Let us look at rental value. Sen. Shrikissoon again, Sen. Saddam Hosein

again indicated, and Sen. Mark, that there are properties in this country, land in particular, which may never have been rented. They are owned. They have been in the family for years. You purchased them. Maybe you are a retired person and you are going to have some 10 acres of agriculture to bide their time while you are in retirement. You are not renting the land, you have purchased the land. How are we going to determine rental values of properties, and how is the commissioner going to determine rental values without having his values, his figures subject to question?

One of the ways to do that with rental values is simply this, and I go back, way back to 1982, when I rented my very first apartment, grad school, Montreal. I paid \$180 a month for that apartment, and I was told to call an agency called the Régie de logement de Quebec, to find out if the landlord was treating me fairly or unfairly. It was their equivalent of a rent assessment board. In Trinidad and Tobago I understand we had a rent assessment board in operation. I do not know when, if it is still in operation, or if it has ceased operation, who the members are, will we revive that board. But at least it will provide some measure of transparency with respect to the assessment of rent.

The Rent Assessment Board will have its own methodology, and we will know—so if someone were to ask me how much will my property rent for, I could ask a real estate agent or I could ask a functioning rent assessment board: How much will properties in my neighbourhood be selling for now? How do you go about valuing it? Or I could also ask our Rent Assessment board whether they have done any valuations in my area. So that I could have an idea and I could know whether the Commissioner of Valuations is accurate or inaccurate with any degree of flexibility.

But given that we do not have these agencies, I too would like to know, as

Sen. Shrikissoon and Sen. Saddam Hosein, exactly what is the basis that the Commissioner of Valuations—what is the formula? How does he arrive at it? Or is it that it is none of my business? He puts a figure there and he says, that is the valuation for tax purposes. But if I do not know, then this matter is going to be subject to dispute if I hold a different view. And if I hold a different view, I will then challenge the assessment—and the appeal therefore is what I would come to a little bit afterwards.

But before I go to the appeal, I do have some concerns with the \$5,000 fine for an individual who fails to file his return within a reasonable period of time. I am wondering whether there would be any assistance given by the agency to people who are having difficulty filling out the form. I am thinking of a kind, old grandmother who may not be too au courant with these issues, may need assistance, are we going to get assistance? You call a number—this is the implementability of the thing—and say, “I need assistance with my form, I want to avoid paying the fine. Could you assist me forthwith?” If that is the case then I would imagine few people will run afoul of the law. But if it is there is no assistance, to simply raise this fee to \$5,000, in my mind, will be a bit draconian. I would want the Government to reconsider the fine. I understand the need for the fine. The need for the fine is to have people have a negative incentive to fill out the necessary documentation and pass it on to the Commissioner of Valuations.

But there are other ways to get people to do things. One of them is a positive incentive. If you fill in your form by a particular date, you may very well obtain a discount on one year property tax for 10 per cent. That is a positive incentive. These are what we have to look at. Instead of individuals facing fines, could we give them an incentive to comply? That is not as farfetched as it seems.

Living in Barbados—and Sen. Roach I know lived in Barbados, he would

have paid electricity bills—whenever I paid the bill before its due date, I always got a discount from the Barbados power company, 5 per cent discount. And so I paid well before the due date interested in saving the few dollars then. So I have this problem with the \$5,000. I am wondering whether we do not need to provide assistance. It is mandatory that the Government should provide the assistance to complete the documentation, and second, I think, we need to review this particular fine, because I see \$5,000 fines for crimes which are much more serious than simply failing to fill out a particular form. Consider the incentive as well. We do need to change the way we do business, and we should be looking at positive incentives as opposed to negative penal fines.

But I do have a concern, before I go on to the substantive points that I want to make. The concern I have is on page 3 of the Bill when we are looking at clause 3. It will be clause 3 on page 3. It says that:

“(a) a building occupied separately from other buildings, a location on a single parcel of land, the building shall for the purposes of liability to tax under this Act, be deemed to be land;”

3.05 p.m.

By that I read that there is a building, a substantial building and there is an annex on the side and, the annex on the side is not going to be taxed as a building, it is going to be taxed as, given the space it has, it is going to be taxed as land.

Well, nothing is wrong with that, but you see when you are talking about the condominium complex now, given that my understanding has always been that land taxes are lower than building taxes, the land taxes per acre in the old regime was something like, I think, \$10 an acre or something, some small sum, it may, of course, be higher now under the new dispensation.

I am asking whether a single-dwelling accommodation as part of a

multi-dwelling building, so a condominium complex with 20 units each condo, Mr. Vice-President, selling for \$1 million and more, but the condo occupies two acres of land, is that condo going to pay the tax of two acres of land; or is the condo going to pay the tax as if it is a 2,000 square foot condo, as if that condo is 2,000 square feet of land? If you are going to tax that condo as 2,000 square feet of land, I think it is going to be inequitable. I do not know if that is what the Government intends, but what it is doing is that it is providing a positive benefit for condo owners, expensive condo owners, inexpensive-condo owners, middle-income condo owners, but condos in this country do not sell for less than \$1million.

I have long agitated that condos should sell for about, if you can get a one bedroom for about \$500,000, we should get a lot more people to be first-time owners, but if we are doing that I see there is going to be some discrepancy, and I know the hon. Minister will address that when she is winding up. There will be some discrepancy, some inequity where the people who own these expensive condos who ought to be paying much more in tax than the middle-class family, the working-class family, struggling to own their own home on 5,000square feet, it would mean that they would pay, the working-class family will pay tax on 5,000 square feet of land and the home, and the condo owner will pay tax only on the square footage of his condo deemed to be land. That, to me, is inequitable, so we will need to address that, and I am sure that we will come to more debates on the other debate.

But, Mr. Vice-President, I come now to the Valuation Tribunal. You see, based upon the inequity which arises when we engage in subjective valuations, I want to reemphasize, the valuation of land and property is not the same as the valuation of gold, soya bean, silver and iron, and iron ore. We have a transparent market in other areas, and in the area of land we are going to impute values. We

impute values, we are trying—we are asking ourselves what will happen if we had full information?

Regrettably, the Commissioner of Valuations does not have full information and he must make a judgment call all the time, this is the nature of the business. In some instances he may find that a property of a similar size may have been sold last month, and so he is able to look at your property compared to that property, but that will, in my mind, not normally be the case, it will be more the exception than the rule.

I think if you ask any person in Trinidad and Tobago today given, again, what we saw over the last decade with respect to property values, what is the price they can obtain if they want to sell this property today? They may have a reference price of 10 years ago and they may say, “Well 10 years ago a neighbour sold his for \$2 million”, but today the economic environment is such that I do not know if I could get half that because I may call a price, but it is only when I get a buyer and I am willing to settle the transaction, a trade has occurred, a value has been determined consequent upon a trade.

So that, Mr. Vice-President, we are going to have a Commissioner of Valuations who will be making subjective calls on the valuations which are going to be done and therefore, clause 11 does not surprise me. There will be people who are going to say that I think your valuation in clause 3, let me quote him again, “is unfair”.

And now, since we recognize that there will be people who consider the valuation unfair, the Valuation Tribunal seems to have a legitimate and logical place. I heard the hon. Attorney General and I asked myself, he has stated quite succinctly that there are many administrative tribunals which are not really appointed by the President of the Republic, they are administratively appointed by

the Minister to sort out domestic issues.

Well, just for information, I was the chairman of an administrative tribunal way back in 1997, I think. It was a tribunal established to determine electricity rates on industrial consumers, appointed by the President of the Republic then, President Hassanali, and incidentally the Chief Justice appeared before me together with his senior counsel who is now, I think, the Chairman of the Law Review Commission, now a member of my tribunal is now an Appeal Court judge, so we had high power. I know absolutely no law, did not know much then, know less now, but the fact of the matter is, that tribunal could not have been accused of being manipulated by the Minister of Public Utilities then.

The judgment of the tribunal on industrial rates, I am sure and the AG, I think, his client lost, the client, he lost the case. There was no appeal, there was no question as to biases and so on. And I think that a tribunal of this nature, valuation of land, questioning the valuation offered by the commissioner, the public servant, I think as far as it is practicable, I would request of the Ministry of Finance to consider whether to avoid the decisions of this Valuation Tribunal being challenged by a superior court, the High Court on the basis of bias, because even though the tribunal may be appointed by the President, I still see a challenge going if changes are not made.

But even if there are changes to the composition of the tribunal, I can still see a citizen stating that the Commissioner of Valuations produced a valuation, I challenged it, and the appointees of the Minister of Finance—and I concur with it, I can see it happening. The appointees of the Minister, whoever is the Minister, upheld the decision of the Commissioner of Valuations, and I could take this to the High Court.

The problem with that, and the AG said there are other courts, is if you are

you are wealthy or well off, and if you can afford attorney representation, you can very well take it all the way up to the Privy Council. But the objective of law is not only for the rich. The objective is for a poor person who feels aggrieved to have his matter settled administratively at no cost.

And so I would like, in the interest of equity and fairness, for consideration to be given for the tribunal to be appointed by the President of Trinidad and Tobago, as I was appointed in 1996 [*Desk thumping*] to chair the tribunal on electricity rate determination.

I did not hear the Attorney General indicate what harm will result, if there is genuine harm that will result on having the tribunal appointed by Her Excellency the President, and I will say “Okay”, I consider the harm, but he did not convince me that there was any harm that was going to result, and that this was a policy position of the Government, and we will be giving any Minister from now until the year 2525, the power to make these appointments.

And, Mr. Vice-President— Madam President, yes, there is a lacuna now. Now the seat has been—

[MADAM PRESIDENT *in this Chair*]

Madam President, my own position is that we should really, again, give serious consideration. There is no ill will or rancour in my recommendation, it is purely for efficiency. Because one of the objectives of reforming our judicial system is to do two things. If we could impose fines, let us impose fines and do not clog the jails, and if we could settle something administratively, do not clog the courts; that is what the objective is.

And what I am seeing here is where—you see, Madam President, a long time ago, I heard a calypso by Lord Spoiler, and in that calypso, Spoiler said there was a magistrate who committed a traffic offence and he was dutifully charged, but

the case against this magistrate was called in the magistrate's own court and he found himself trying himself and he found himself at one point in contempt and so on. What Spoiler was saying is that, the situations will arise when there will be a conflict of interest and if it could be avoided, in my mind, it should be. So that is a policy position. That is for the Government to undertake, and I think the public interest will be so defended.

Madam President, I come now to the amendment that I have circulated. I see what the Government is proposing, what the hon. Minister of Finance is proposing, is that the Valuation Tribunal, A, shall consist of a chairperson who shall be an attorney-at-law. I have no problem with that, two other persons one of whom shall have wide knowledge and experience in the valuation of property.

But later on in the Bill, I see on page 10 of the Bill, this would be 25G(5), it says:

“An Act or proceeding of the Valuation Tribunal shall not be regarded as invalid because of a defect in the appointment of a member of the Valuation Tribunal or a vacancy in its membership.”

Let me read that again. You see, an Act, page 10, Madam President, 25G(5):

“An Act or proceeding of the Valuation Tribunal shall not be regarded as invalid because of a defect in the appointment of a member of the Valuation Tribunal or a vacancy in its membership.”

My reading of that is, if there is a vacancy in the membership for a few months, the Minister is looking around, and there can be good reason for there to be a vacancy, someone may have gotten ill, someone may have resigned, someone may have died, whatever it is. The Valuation Tribunal will not be stymied in its work. And that therefore, considers, the tribunal sitting with, I imagine, not three members, but in my tribunal I had to sit with three people sitting in the tribunal.

Whether the Government intends for the tribunal which is really a hearing body to sit with two, this is what I am reading in 25G(5). If that is the case, this is what I would recommend. And I would like 25A(2) to read as follows.

The Valuation Tribunal shall consist of—

(a) a chairperson who shall have wide knowledge and experience in the valuation of property;

He is the person or she is the person I would like as the chairperson of the organization, because whenever the tribunal sits, the chairman is the person who has wide knowledge and experience in the valuation of property.

(b) an attorney-at-law with 10 years or more of experience;

You see, if we have a chairman who is an attorney-at-law with 10 years or more of experience, it does not say anything other than he has 10 years of experience in insurance law. He has 10 years of experience in any type of law, divorce law, he has just 10 years of experience. I would imagine that the hon. Minister recommending persons who will then be appointed by Her Excellency the President—I do not want to second guess government policy—will choose an attorney, Madam President, who has some experience in two areas. One, conveyancing: he or she has done land matters before; he or she has done matters pertaining to the transfer of property and so has dealt with a lot of properties in her training.

And I raise that because when I purchased a property 20 years ago I dealt with a conveyancer, and I said of all the people, Madam President, who deserved their money, I thought I should have paid the conveyancer more, because after she did her work for me, I was convinced that there is no flaw in the transfer of title.

So, I would hope that the attorney-at-law with 10 years of experience is someone with conveyancing experience. If you cannot get that person, at least,

have the person have mediating experience, because there is another subclause in the law which says that the tribunal, as far as it is practicable, will aim to reconcile without going to any higher body the difference in values between what the owner feels the value should be, and what the Commissioner of Valuations says. And so, if you have an attorney with mediation skills, I am sure that that objective of mediation will be, of course, resolved.

And then it says in the Bill before us that the Government is considering one other person, two other persons, just one of whom will have knowledge in valuation, and one other person, a third person. Could we in this important tribunal not define this person, and do not say this person must have certain characteristics. Not just any individual, I am sure the Government, the Minister whoever it is appointing will not appoint any individual simply because of affinity or family connections, but really I would prefer for the third person to be another suitably qualified person drawn from the construction or real estate sector. Why am I saying that? So I want the chairperson to have wide knowledge and experience in the valuation of property. He must have, let us determine, he may not have certification, you know, but he should have experience in valuation.

Again, when I purchased the property two decades ago, I had to value it for my bank, and they recommended me to a valuator, and the detail with which the valuator, I do not whether the valuator had any designation, I paid him a fee for what he did, but his valuation was proper, his inspection and so on was thorough, and he was able to tell me that the price I am paying is maybe about \$10,000 less than what he is valuing it for, and the bank was very satisfied with that.

So, I would like the chairperson to have the wide knowledge. So when the tribunal sits, if it sits only with two, at least, it can sit with the chairperson with experience or/and the attorney-at-law or the chairperson with experience and a

person drawn from the construction or real estate sector. Because if it is that the tribunal can sit with two, with the attorney alone as chairman, then we will have an attorney with 10 years of experience in commercial litigation together with another person, two persons none of whom has any experience in valuation, and decisions made by these two alone, because of a vacancy and so on in the tribunal, decisions made by these two, I am sure will be challenged on the basis that, (a), they were appointed by the Minister, and (b), the critical person in the tribunal was not there, he is absent.

So, I think, to correct what I see as a potential problem, I would like the Government to give consideration to the changes. The chairman being the person with experience, the attorney-at-law with 10 years or more of experience, hopefully with the relevant experience in mediation conveyancing, and one other suitably drawn person from the construction or real estate.

Why construction or real estate? We are dealing too, we are dealing with construction and we are going to value buildings, we are dealing with real estate where we are valuing land, and someone with experience in that sector who is sitting on this tribunal will know that I have constructed, he may be a quantity surveyor that works for the building part—

Madam President: Sen. Mahabir, you have five more minutes.

Sen. Dr. D. Mahabir: Thank you very much, Madam President. So if he is drawn from the real estate sector, then I am sure, Madam President, he too will bring to bear on the deliberations of the tribunal a certain measure of expertise which will give the public confidence that the ruling of the tribunal really should not go further to clog up the High Court, and I think it would be fairer.

Madam President, in my few minutes I simply looked at, again, the grounds for removing a member of the tribunal, the Minister may suspend. And then I saw

for "...physical or mental incapacity or for cause." Is the Minister going to determine that because someone has an ankle problem and he cannot climb the stairs and he has a physical disability to get to the top floor that he is medically unfit?

I would think that you could remove someone for being medically unfit, remove it from the Minister. The Minister should take advice from somebody, because you can say that the person is medically unfit. And I see mental incapacity coming all the time. I do not know what mental incapacity is. We need to look at mental health. Is the fact that someone is seeing a psychiatrist for stress and anxiety, mentally incapable of performing his functions? Let us look at these things and see whether the Minister should have the power or not. Yes, it should go to a medical doctor.

Madam President, I saw at 25B(2):

"...a member of the Valuation Tribunal becomes bankrupt..."

You know, I have seen this in many, many laws, and when I see this, Madam President, I say to myself, in this particular area, why are we imposing bankruptcy? Take a very, very good professional who has a real estate business going on the side, he borrowed a few million dollars from the bank, but the economy turns against him and he cannot sell the homes that he has constructed. He knows a lot about the business, he knows about valuation. He has become bankrupt. Are we going to remove him from office simply because the building construction industry went sour? I know of many people in the 1980s who faced that problem. They are not immoral or inept in any way, and we need to be looking at bankruptcy, again, in this context to see whether someone's investments went sour, should he be removed for that especially when it happens in real estate all the time.

Finally, Madam President, I am rushing here, but when I looked at 25H(b),

25H(a) and 25H(b). 25H(b), makes no sense whatever. I do not know if the drafters are here, but it has to be removed, because what 25H(a) says, is that we are going:

“to furnish the Valuation Tribunal, by writing signed by that person or, in the case of a body corporate by a director...”—and so on.

And then 25(b) simply replicates a section of 25(a). So 25(b) has to go, it makes no sense. And if 25(b) has to go, then there will be consequential amendments, (c) will then become (b) and so on. So that is for the drafters to look at. This basically, 25(b) makes no sense to me whatever. It does not read at all, and it is a replication. That is for the drafters.

And since, Madam President, if that change, it seems clear to me has to be made, and we have to go back to the other place, I see no reason why the Government cannot give serious consideration to the amendments that I have proposed, which I think are very reasonable and practicable.

Madam President, I thank you for giving me the time to contribute. [*Desk thumping*]

Sen. H.R. Ian Roach: Thank you, Madam President. I am pleased to probably take a few minutes just to read some of my concerns with this Bill which in principle I think is a Bill that is necessary, it is a Bill that has been debated elsewhere, it is a Bill that raises a lot of emotions within and outside of these Chambers every time it is up for public commentary.

The Bill, an Act to amend the Valuation of Land Act, Chap. 58:03. What concerns me most about this Bill, Madam President, is the fact that it affects everyone that is probably a potential or an actual landowner in Trinidad and Tobago, is its vastness. Right? It is going to touch everyone that has property or a potential owner of property in the country, and that the law should be written in

such a way that anybody, non-lawyer should be able to read this clearly as possible. It must be clear, it must be cogent and it must read easily, and must not necessarily depend upon the assistance of any technical person, more so an attorney-at-law.

And from the debate that has taken place thus far here, you can see the doubts, the ambiguities and the uncertainties in many of the clauses that have been suggested in this Bill thus far, without going into all of them. I mean, they have been mentioned by a number of my colleagues on both sides thus far.

And what I think ought to be spelt out probably by the Minister in her winding up as the case may be, is that what the public really would be interested in knowing is what exactly is the real objective of this amendment, Valuation of Land Act to achieve. What really and truly is the purpose of it? And clearly the purpose coming out of this is to value land for purposes of raising taxes. Right? There is nothing wrong in it, there is nothing absurd in it. In most modern societies, owners of property are subjected to some level of taxation for the property that they possess.

What concerns I think the average member of the public where these things are concerned, where taxes are concerned, is not so much in the paying of the taxes, but again, it is how your taxes are used, and it cannot be divorced easily from it, because there are penalties for not paying taxes and so, but there are no penalties for when people's taxes are misused, abused, disappear, misappropriated and things like that. People have great concerns about this, and it causes a lot of anxiety.

I have spoken to a number of persons who have approached me about the implications of this for them, especially old persons. Persons who are not inclined to the legal niceties of most of us or who have access to legal minds to assist them.

And certainly the thing is, in explanation I keep saying that I would like this Bill to be as simplified as possible so that the average, ordinary person can read and understand what are their obligations under this.

The valuation, how the land is to be valued. There are certain obvious issues that would need to be addressed. The Minister in her opening statement, discussing and trying to give the explanations about there are three different ways, at least, for which the valuation is going to be assessed for, I think, is residency, commercial, as well as industrial, and the flexibilities is necessary because to cater for those differences in ownership.

I think the ordinary person would like to understand more clearly, however simplified this can be made to understand, "I have a property, this is what I am expected to pay based on this value". It cannot be too intricate, and from the debate so far, there is a lot of ambiguity so far in this. Right?

In terms of the issue raised that the Attorney General presented himself to help the Chambers in grappling with in terms of the tribunal, again, I understand his explanation. His explanation is a quite valid one in terms of these types of specialized tribunals not being unique. This one is not a unique one. And he drew on the cases, well-known case of Suratt and so forth, which spoke about procedure and so forth. All that is well, solid and good, but my concern with the tribunal, and my fellow Senator, Sen. Dr. Mahabir raised it just now, mentioned it, is that whether this tribunal in its operation is going to help to alleviate the burden on the courts or is it going to add to the burden of the court.

And this is critically important, because we are setting up institutions that are not properly financed or they are not properly resourced in every way in order to achieve the objective for which they are being promoted, and hopefully this would not be one that falls into that bandwagon, again. So, I think one needs to

think about that clearly. Good intentions, road to hell, like I have said before, the road to hell is paved with good intentions. That the good intentions of this will lead to speedy resolves and dispositions of concerns of persons who are querying their valuation or whatever concerns they have with their property by the Commissioner of Valuations, I think that this is important.

Is it just being set up, again, to clog the system, by just clogging it from a different angle? This needs to be clear. If it is not going to serve that purpose of expediency, promptness and reliability and confidence, I think that it is something that we need to rethink before implementing it. And I think this is where Sen. Dr. Mahabir was coming from in a certain way.

In addition to that, another thing he raised that I think is important from a practical point of view with tribunals is that, this tribunal is supposed to consist of three persons, and according to the clause it is supposed to be the decision of the majority. Right? So if you have two persons sitting, obviously it cannot be a majority of two.

And learning from the experiences that we have had in recent times in another area where you have a judicial officer sitting in judgment of a number of cases and not able, for whatever reason, to be able to continue, how would these things proceed? How is this to be done?

I think we need to be able to factor that into our legislative exercise here today. Is it that we are going to provide that in the event, for whatever good reasons, a member of the tribunal is not able to continue sitting, and probably would have sat on a number of matters that are inconclusive, how are these things, how are these matters to be concluded? Is it going to have to start before another constituted three-member tribunal *de novo*, or could it be continued? I think that is something we need to put some attention to. We need to get some guidance on

that. What is the practical aspect of dealing with this? It is not something that is far-fetched, it is not something that is whimsical; it is something that has occurred, and I think we need to take in front where that is concerned, to be proactive with it.

In terms of the appointment of the members of the committee, of the tribunal, it being the Minister as opposed to the President, the Attorney General gave, you know, the undertaking, you know, that it is provided for in the Bill. There are a lot of checks and balances. You have the views of the Court of Appeal, which state basically, once the procedure is set in place and it is reliable, there is nothing offensive about it. I do agree that is so, but at the same time, I mean, we are in a situation in this country where people are becoming more and more distrusting of people in authority—right?—across the board. And therefore, whatever we can do in our part when we are doing this so as to lend some sort of assistance in getting back that confidence in them, we need to do it. We need to do it, and if therefore, people at large might feel more comfortable with the President having such a role to play, why not? I am just saying.

3.35 p.m.

Yes, of course, there are the checks and balances with your appeal to the court, and so forth. And again, the concerns raised that the fact that if you have to go to court, court requires resources, and not everybody would be privileged, or be in a position to be able to financially afford to litigate something that we have a very good reason to litigate. So we need to look at these things as well.

The other thing that I wanted to raise—where persons are concerned, people really would like to know—the point, I think, was raised by Sen. Wade Mark when he said, in drawing references from Jamaica in terms of persons being able to be financed, when they have an appeal, by the Government as opposed to the person having to do that themselves, I think that is something we need to contemplate on

as well, because we are in difficult times. A lot of resources are not available to people. One wants to discourage litigation, but when litigation is necessary, the courts are there for that and I think people should be empowered to have reasonable access to be able to litigate a genuine concern that they have that may be distressing to them, where their property may be threatened in terms of confiscation as the case may be.

In terms of the tribunal, the terms of appointment of three years, and you are supposed to have all of them not to be collapsed at the same time so you have overlapping, I think three years is a bit short, because we do not know the nature of the procedure of this tribunal, how it is going to operate. I think a five-year term for members, or probably fluctuate five and four years or three years, as the case may be, to have that. But to me, it should be a lengthier time because we know how things go in this country. We tend to be a little lethargic on efficiencies, and three years will pass like nothing. So, the time you get this tribunal up and running, getting the procedure down, organized and implemented, three years might be up and you have somebody who has just started to get some sort of an understanding in their function, has to go out. There is no security that the person will remain, even though it is renewable. Yes? So I think it is something we need to look at in terms of the years. That is something not unreasonable.

The other thing is the point that is raised again, and I immediately when I was reading through the Bill, the first thing that jumped out at me, because probably it was written in figures, is the penalty. I think the penalty of \$500 moving to \$5,000 is oppressive, really and truly. I know what you are trying to achieve, but there are so many different ways of achieving things like that. And I mean, one does not always have to use the stick, one could also use the carrot, which is what Dr. Mahabir was saying, and I want to lend him support in that

regard.

I think that we need not go where that is concerned. We can use some sort of other, more positive ways of encouraging people to want to pay, to want to be legal and to honour their obligations; that we all would like to honour our obligations, to enjoy the fruits of a well-functioning society. Give the Government the resources to do what they want to do and also put the Government on notice that they also will be held to a high standard, if they, too, find themselves lagging in the way in which they deal with our resources. Right?

There must be some sort of balance and some equity. So at the end of the day, what I would like to see in the Minister's winding-up of this is that this Bill, basically, this amendment, is going to bring about—people would feel that there is a sense of equity in terms of how properties are valued. People will feel a sense of motivation to pay what is assessed, what they are assessed to pay. People will feel of sense of justice, that if there is any error, wherever it is, that they have reasonable means of having it addressed and corrected in a prompt way, and an efficient and reliable way, basically.

So Madam President, those are the concerns that I think that jump out at me where this Bill is concerned, and with those few words I say thank you. [*Desk thumping*]

Madam President: Minister of Public Utilities. [*Desk thumping*].

The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte): Madam President, it is indeed a privilege to stand before this august House in defence of the Valuation of Land (Amdt.) Bill, 2018. As we are all aware, and has been said before, the valuation of land is nothing new to Trinidad and Tobago. In fact, it was brought out by my colleague in piloting the Bill, the Valuation of Land Act was enacted almost 50 years ago, and in its current state, the Act forms part of an

ecosystem of legislation, some of which dates back to 1902.

The resulting system, Madam President, is convoluted, burdensome, outdated, and more importantly, lacking equity. And so, this Valuation of Land (Amdt.) Bill is an attempt on the Government's part to move the legislation into the 21st Century and to develop a more streamlined and a more efficient approach to land valuations. It will do this primarily by bringing the Valuation of Land Act in line with the soon-to-be introduced Property Tax Bill, thus ensuring that the process of determining annual taxable value and collecting that corresponding property tax flows smoothly from beginning to end.

And in doing so, it would allow the citizens of Trinidad and Tobago to actively share the burden of adjustment as we seek to keep our economy afloat during these difficult times; times I dare say, Madam President, that are not of our doing; times that are here among us, to a large extent, as a result of international factors, but times and difficult times which we are experiencing now, which are to no small extent due to the reckless economic management that was done during the last five years by the last administration. [*Desk thumping*]

As again was said before, there is a nexus between the Valuation of Land (Amdt.) Bill and the Property Tax Bill, and if we were able, as we had proposed, to put these two Bills together, as was done in the other House, a lot of questions and a lot of issues that were raised, especially by some of the Independent Senators, were going to be addressed. However, we are placed in this situation, not because of our own doing, but simply because the Members on the other side, especially our Opposition Members, choose that it must be done this way.

I must add that the very nature of these two Bills, the Valuation of Land (Amdt.) Bill, 2018, and the other one to come, are meant to protect, actually—and I want to repeat that. They are meant to protect the most vulnerable in our society

whilst ensuring that those who are in a position to contribute more will do so. This particular Bill is fairly straightforward and attempts to do just that. It is really an attempt to spread the burden of adjustment, and this is something that this Government has been doing and has been attempting to do for a little while.

I will take this time now, Madam President, to address some of the concerns that were raised by some of my colleagues on the other side, and I will start my contribution by quoting what I felt was a very pointed comment by the *Sunday Express* in their editorial of October the 8th—Sunday, October the 8th, 2017, and I quote:

If the past holds any lesson for us, it is that Trinidad and Tobago lacks the socio-political cohesion to face adversities united in strength. Just when we most need to rally to our common cause, division seems to come more naturally, and we splinter and weaken ourselves.

Madam President, those words are very, very insightful, especially—and when I was writing them down I even told my colleague at that time—Sen. Mark looked over at me and he asked me, what am I looking at, and I said I was just getting inspiration. Those were the words that were coming into my mind when I hear—when that is the problem that people see with us as a country. And therefore, as the leaders of this country, we have a role to play in correcting that perception.

We are clearly not in normal times. We are in times that, as I said before, we are in difficult economic times that came about because of international forces, things that have happened in the past. But for us to get out of these times we really do need to come together. And I think sometimes, as much as we are on opposite sides, one of the things that helps us to come together is that we have to stop this attempt of always demonizing each other, almost making a belief that someone is doing something because we are trying to—we are demons on one side and we are

therefore trying to make things, not because it is needed, not because this is required, not because it makes sense, because that person is a demon.

And we have to stop that. We have to stop that type of conversation and we need to change the narrative. So this is not about—this Bill is about bringing us to the 21st Century. I do not think anybody here could stand and accept that we have valuations—it is something that all countries must have. The fact that we are doing it, it is not because we are demons. It is not because we are bad people. You have a value, you have a property, you need to get it valued and we need to have a valuation roll, and we have to have our laws lined up so that you will get a value and, yes, it will move into the property tax, but that is because it is a good thing. There is nothing wrong with that.

And there is nothing cynical about it. It is not an attempt to pauperize the country, as Sen. Mark will have us want to believe, and to take advantage of poor people. As a matter of fact, if you look at this Bill—and I find it strange and I find it hard to believe that if you have a Bill that is attempting, in one way—I mean, logic tells me, if you live in a very big property and you are living in places where the supposed 1 per cent lives, and you are living in the west and you are living in certain areas of this country, chances are your property will have a significant value, or more value than a poor person, or a person living in a more humble abode, in a more humble area.

And, therefore, a Bill that attempts to place a higher valuation which will then, as you said, allow for us to be able to exercise more taxes out of that, there is nothing that could be wrong with a Bill that does that. As a matter of fact, contrary to popular belief, if you are able to collect your taxes and you are able to collect, these valuations, by extension, lead to additional taxes from people who could pay. It will allow for you to be able to do a number of things that you want to do for

poor people and for the less fortunate in our society.

So this is a very progressive Bill and one should not be arguing against things like this. It is something that is natural and there is nothing demonizing about it. A lot has been said about the whole idea of the penalties that are being charged, and we heard Sen. Small mention about whether or not we need to—*[Interruption]*—Sen. Roach—whether or not we need to—sorry, I apologize, Sen. Small. You know, we always seem to mention you because of your affinity to the financial sector. But sorry, I apologize. Sen. Roach.

We were talking about—one of the comments is this whole idea of the price and the penalties that will be charged. And this is not about an opportunity to raise revenue. But in the Bill it talks about—first to begin, I mean, a very important word everybody seems to be glossing over, “a person who wilfully”—a person who “wilfully”. So this is not about a situation whereby I am penalizing someone, moving it from \$500 to \$5,000. A person who wilfully fails to make a return within the prescribed time under—that is being asked, and then a person makes a return which is defective, incomplete or which is, to his knowledge, false. And again, remember, it starts with the concept of “wilfully”. So you must wilfully decide not to do it and also you must wilfully decide to make a false declaration.

Now, again, we, as leaders in this society—and we talk about leadership. Leadership is not about the Prime Minister. Leadership is about all of us. Is that not something that we want to penalize or prevent somebody from doing? Do you not want somebody wilfully to not make, or wilfully to make a false declaration? And are we condemning that type of behaviour by saying, “Ah, that is \$500?” So it has nothing to do about whether or not \$500—and we are not doing that because we find \$5,000 is not much money, and, therefore, it is not—it has nothing to do with that.

And therefore, again, when we say it, what is the conversation? The conversation that we should be encouraging in this House is actually agreeing to the fact that you must not wilfully attempt to defraud the Government, because when you attempt to defraud the Government by doing things like that, you are actually stealing from the poor. And the same people that we are attempting to protect, the poor that we talk about, we are actually putting them more at risk by some of our actions.

So I have heard those comments and I am saying, I am one that totally supports any person who wilfully attempts to defraud the Government, I am saying \$5,000 is more than adequate. We also talked in another place—and we pick legislation. We talked about what happened in Jamaica. And what happened in Jamaica, if I was hearing correctly, is that if you did not file, that you were actually—you could be imprisoned. So what are we really then saying? I mean, we want to pick what is right here and what is wrong here but, actually, this does not talk about imprisonment, but it also sends the message clear that we do not want anyone to wilfully attempt to defraud the Government.

Another issue that a lot of conversation has opened, has been raised in the House, centred about the Valuation Tribunal, and whether or not that should be appointed by—and I think the Attorney General gave justice to the fact that nothing is wrong with the fact that it is being appointed by the President and, therefore—not by the President, by the Minister of Finance. And therefore, we have to start—you know, as a country, we got ourselves in a little constitutional—and I have heard a lot of our leaders before speak about constitutional reform and the need for it. We have found ourselves in a situation now where people are talking about the need, or whether it is correct or not to have these commissions that we have that govern us. And if you go back, we have understood where did

they come from. They came from the fact that there is a little lack of—it came from way back in 1961 when we were going to get independence and there was a little bit of mistrust that we had among ourselves. So we created this.

And therefore, there are a lot of laws. The idea—we have to trust. We have a system—and I understand that, yes, there has been a reduction in the level of trust in the society. But, really and truly, if it is correct, if it is nothing illegal for the Minister to be able to appoint the tribunal—and in the law it actually talks about all the ways under which, yes, he could remove the members of the tribunal, but it is also specific as to under what conditions could he remove the person. So you cannot just appoint them and decide tomorrow morning to move them. It is not like that. You have certain laws and certain things. And I totally agree that if someone is on that tribunal and the person is bankrupt, that that is definitely a reason—I would dare say that that is a reason why you should not serve.

Madam President, when you are bankrupt, you are vulnerable and you are at risk. When you are bankrupt, chances are you owe people money and when you have to deal with serious judgments as it relates to valuations and hear people's appeals and so forth, and you are bankrupt—I do not want to throw any aspersions on anyone, but it puts you at risk. And because of the importance of the particular tribunal, I would think that if you are bankrupt and owe people lots of money, therefore we should not, as a country, put you in a position that you could be placed at risk, or place us at risk.

So I think it will be imprudent, or not prudent, to put someone who is bankrupt on the tribunal. So I support that staying there. But I want to also make the point that there are a number of different—that the decisions made by this particular tribunal, if people have any problems with it; if you do not like it, to me, based on what I have read and what was the Minister in piloting the Bill spoke

about, you have the rights to go—take it to the High Court and then you could take it to the Court of Appeal, and so forth. So there is recourse.

So this is not something that is static and it is a final, and therefore it cannot—this is a body that will attempt to help to mitigate and deal with particular situations, and therefore, I see no problem in it being trusting and by it being appointed by the Minister of Finance, especially in light of all of the conditions under which he has to ascribe after appointing someone. He could only remove that person under certain actions.

We also heard a lot of conversations, and someone made the point—and we hear a lot about this whole aspect of this Bill—this valuation Bill is geared towards, again, taking people's land or charging individuals. And, again, the Bill, as was piloted, talked about a minimum valuation that is going to be ascribed. So that, one who is less fortunate and is living in a humble dwelling, the minimum valuation that is going to be ascribed is one of \$18,000. All right?—\$18,000 annual rentable value.

But what is important—and I do not want to get in too much into the Property Tax Act—as was also said, that figure equates to \$540 as the equation of property tax. Now, Madam President, \$540 annually, equates to—and I did a little bit of maths there—that is \$45 a month. Now, we know that old-age pension in this country is about \$3,500.

Hon. Senator: Thanks to the PNM.

Sen. The Hon. R. Le Hunte: Thanks to the PNM, as they said, old-age pension now is \$3,500.

Sen. Mark: Thanks to the PNM? [*Crosstalk*]

Sen. The Hon. R. Le Hunte: The point I want to make—[*Crosstalk*] Protection, Madam President.

The point I want to make, and I will make it a lot clearer when we speak to the property tax, is let us stop the rhetoric. Let us change the conversation. Let us stop the rhetoric about this is going to allow people to lose their houses. A pensioner gets \$3,500. If you have to pay \$45, Madam President, that equates to 1.2 per cent of your disposable income. Now, again, people talk about Jamaica; they talk about Barbados; they talk about a number of different areas. I will tell people, in most of those jurisdictions, property tax represents close to 5 per cent of your disposable income, a conversation which I will deal with in another place.

But here it is, again, we are talking about even at minimum, at the baseline which we are setting, the person will pay \$45 per month. And, again, you are having individuals getting—and I do not want to put them as the lowest, but you are having people who are getting from the State, an old-age pension of \$3,500. The level of that person's ability and that person losing their property—so all the fear that is being created around this valuation, in light of what is to come, is again “misfounded” and is again about creating a hype and it is again playing into, and putting out a conversation there that is all geared towards dividing us rather than bringing us together.

Madam President, finally, in dealing with one of the, what I consider to be the most—well, I would not use an adjective for fear of contradicting this or saying something that is not right in this House. But, you know, somebody actually made the contribution coming from the other side, about the fact that this is required—my colleague here, Sen. Hosein—that this is required because of the reckless spending of the present Government and because of this reckless spending, this is why they have to do this now to poor people.

Again, I want to urge all of us as leaders—yes, but again, somebody hearing that on the outside; people who are looking at us on the television, you know,

is in a position that we need to collect.

There are a number of levers under which people could move, you know, Madam President. There are a number of levers and one of the levers you have to try to reduce your deficit is to attempt to collect as much revenue that you can. Because if you choose not to do that, as I am sure Sen. Mahabir in economics will know, that there are other levers which you could do, and those levers when people talk about perpetuating them and you are trying to protect the poor, that at the end of the day if you do not move certain levers you could affect other people negatively.

So this legislation is about modernizing. This legislation is about creating and bringing, putting the springboard for equity, and people talk about, yes—not people so. Some of my Senators have spoken about the fact that this was passed in 1940 and, therefore, work was not done before and we are trying to do work now that was not done before. Madam President, I was not around in 1940. I am not that old and, therefore, I am about doing the work now. You know, I am not about going back and talk about over the last 30 years who was in power, who was not in power, and how many times the Government changed, and who was in power and why they did not do. I do not want to get down in that. We have a country to fix. We have to put things in place. We have to modernize our country. We cannot continue how we have been going.

I have been on record talking about, we talked about efficiency, we talked about fixing our utilities, we talk about fixing a number of areas, and there have been a lot of talk. I am also on record that talks about legislation are never perfect. We cannot get every single thing right, but what we could do is to try to play our role here in setting the conversation right and trying to do the best that we can. So I stand in support of this legislation because I think it is good legislation. I stand in

support of this legislation because it is in keeping with our philosophy of sharing the burden, sharing the burden of adjustment. It attempts to make sure that this sets the springboard that will allow for us to value properties in a better—everyone want a roll, a proper valuation system in place that will allow for us to go forward.

I have heard people mentioned about whether or not average value or rentable value should be the way that it should be used, or other places. While I was in Barbados like you, in Barbados they choose not to use what we are using here, but I could tell you the conversation at that time for the same little old lady who was living on the west coast and had a house—and, of course, you know the charm of Barbados is that you have tourism, you have big hotels next to people who choose not to sell, and if you use the value, just the straight value, whether you have a little old house on a property that just sold for US \$5 million what is the value of your land and your house? Now you have no intention to want to sell it, but you have a big valuation—and that same little old lady who chose not to sell it—if you use other approaches, and they were arguing then in that house, that that will result in a high valuation because you are living. Whereas if you use this method and you have no intentions, a little old house nobody want to rent it, the tourist really would not—so the value you prescribed on it because you are living there and you are renting it and, therefore, this is the reason why this approach was being used there, or was being put forward by some Members to be used there rather than this.

I say that to mean that we could pick this one and have problems, pick that one, but as leaders we have to give direction, we have to do what is right and this legislation attempts to do that. It attempts to do what is right, it attempts to implement something that is needed in this country at this point in time, and it attempts to modernize what it is that we are doing and harmonize what we are

doing, and again, as I said before, in keeping with our philosophy as a Government in spreading the burden of adjustment during these difficult times.

With these few words, Madam President, I support this and I thank you and the audience who is listening. Thank you very much. [*Desk thumping*]

Sen. Brian Baig: Thank you, Madam President. Madam President, I am extremely honoured to be in this House yet again and I would like to thank colleagues for their warm welcome to this House, and I would also like to thank the Leader of the Opposition for giving me this chance again. Madam President, before I go into the meat of my discourse today, I think it is only proper that I have some responses. Sen. Le Hunte, you went down the road where you were saying we are not here to get into the game of fighting, or saying who is to blame or who is not to blame, but then you went down that road and you were saying that we are here today of financial issues because of reckless spending of that of the previous administration. I want to remind Sen. Le Hunte that it was the past administration who gave this country a sporting complex in Couva, it is this past administration that gave this country a Children's Hospital that you refused to open, it is this past administration that ensured that a lot of things you can see with the spending of the people's money. We are not seeing what the Government is doing with the people's money, but we can see what has been happening with golf courses, we can see what is happening with AV Drilling, we are seeing what is happening with that of the Cazabon paintings. That is wasted spending—[*Interruption*]

Sen. Obika: Romping.

Sen. B. Baig: Romping as well. Maybe that is why the Government has come today to deal with the issue of looking to tax the people of this country. The poor man is facing the brunt because of bad mismanagement by the People's National Movement led by Dr. Keith Rowley, the Prime Minister.

Sen. Le Hunte, you also made mention that a person who is living in a one-house bedroom, a pensioner, is making a little bit of money. Apparently, he thinks that 1.5 million people of our country, some of those pensioners are only living there, but, in fact, what about those other persons who are living in other types of houses with other rooms and more rooms, would they not have more moneys to spend? Big families, they would not have to spend the amount of money you were saying, but also I would like to remind you, Sen. Le Hunte, in 2009—you were not here in 2009. I think you were in the banking system.

Madam President: Senator, may I just interrupt you and ask you to speak to me. You address a Senator through the Presiding Officer, but there is also something else I want to just—Members, I am sorry, but have a look at Standing Order 46(5) and it says:

“Ministers shall be referred to by the titles of their appointments...”

So it is the Minister and then the others are Senators. Thanks.

Sen. B. Baig: I am guided, Ma'am. I am guided. My apologies. Madam President, the Minister has to also remember in 2009 his now Prime Minister, who was not Prime Minister then, said that \$100 was important to the normal poor man in this country and \$100 is hard to release [*Desk thumping*] but now we are in 2018, I guess the Prime Minister sees \$100 as nothing.

Madam President, I am today going to go to many of these clauses here, but I think I need as well as—I am also an attorney-at-law in profession—I am only seven years called. I am relatively young in the profession—and I was hoping today that the Attorney General would have come today and as well as would have edified me as a young attorney about some matters that we were hearing here today. I was hearing him making mention of a lot of tribunals, various tribunals in the T&TEC Act, et cetera, but I am going to come to that with other parts here

where in which we must understand that we have come to crossroads, where in which you are looking to appoint persons in the land valuation these are persons who are going to be appointed by a Minister. So they were looking to amend it by replacing President. So if I may look at the parent legislation, Ma'am, under section 9(2) it says:

“...fresh valuation shall take effect on a date fixed by Order of the President...”

I am going to stop right there. I am going to stop there. So they come now and they are taking out President, and they are putting in Minister. Madam President, that is dangerous. [*Desk thumping*] That is in fact trampling on separation of powers. [*Desk thumping*] We must not forget men by Lord Woolf. We must not forget men like Lord Denning who talked about making sure that such principles are kept in line.

The AG went all over and talked about all “whey” have these so-called tribunals, but you know what is the one tribunal he failed to talk about which is in his own Ministry? Is that there is a court in the Intellectual Property Office which is head by the Controller of the Intellectual Property Office, and that person is appointed by the Judicial and Legal Service Commission, not by the Attorney General, you know. I find it very strange, Madam President, that he did not mention that here in this House. You know why he would not do that? Because he is not going to embarrass himself or even his Government. So I found that to be very, very disingenuous to come here and to do that and to mislead the public—

Madam President: No, no, no. Senator, please be careful in how you are presenting your arguments. Remember the Standing Orders. Okay?

Sen. B. Baig: Thank you, Madam President. I am guided. I do apologize. Madam President, they cannot come and mislead the House like that, but I

understand. I am guided. I am guided.

Madam President: But I do not know if you are guided you know because you are not taking on the ruling. Okay? So I am going to ask you once again, be very careful as you proceed. Thank you.

Sen. B. Baig: I move on, Madam President. If we look at the Bill in which clause 4 is dealt with, under section 5 you are seeing where under part (b) where we are dealing with:

- “(a) site value and improved values;
- (b) annual rental value; and
- (c) where necessary, the capital value.”

Now, Madam President, when we look at (a) where “site value and improved values”, now really and truly that is a bit punitive to me. Also, is the Government telling us—and may be the Minister can guide me here, is that improved values—is this where now people who have looked to improve themselves with their properties, is it that then you are now punishing the public for improving themselves with their properties, maybe an extension somewhere, or they put in an extra bedroom, or maybe an extra bathroom? Because, we as a people, we like to feel that we are good in our homes. We may see that there is a need for an extension here or there. So I am asking if someone in the Government could tell me is that a way of punishing the people, and as a Government they should not punish the people who want to improve themselves. [*Desk thumping*]

When we look part (b) with “annual rental value”, now that is discretionary. Annual rental value in one area may be different to another area in the country. So again, I have questions being asked here, why would you look at that? So maybe someone on the other side can answer that for me. And also, is that where you look at the whole issue of when persons have to now come where necessary,

the capital value. Now capital value is what exactly? What is that? I would like to know. Is there an issue of potential biasness could come in with that where if a person has to come and do evaluation and it comes to this so-called evaluation committee or commission, they may say well how you valued your property as X they may see it as Y, and that may be seen as biasness.

So I am asking if the Government can help me by telling me what this is about. And the reason why I am saying that, Madam President, is because I am here not only speaking for myself. I am speaking here for people of a north-east region of this country who do not have a voice, because in the other House, other persons did not get a chance to speak. So I am here speaking on their behalf because there are questions. When I go to constituencies like Toco/Sangre Grande, in St. Joseph, St. Augustine, people are asking these questions, and if I cannot answer these questions what can I do? That is why this Government must answer these questions to the people of the country. That means, Madam President, that there were no proper consultations with the nation, there was no proper consultation with the people of this country.

Madam President, I move on. There is the issue about the valuations committee being appointed by a Minister and if there is an issue with the Minister doing that. Apparently, they are saying that there is no issue with that. But I am sorry that is an issue because what if a member of that committee and the Minister falls out in the morning, does that member of the committee be suspended from the committee as they are saying here? If they come to the tribunal and he sees something, his conscience hit him and he realized that a person's valuation is proper but the others are saying no it is not, and he comes with a conscience vote on that commission and say no, I believe the people, does the Minister then say, hey you are causing a problem and you must go? No, that cannot happen, Madam

President. Then that shows again the tentacles of politicians coming into tribunals, and I will repeat it again, that is dangerous and we must not allow it.

Madam President, I wish to also move on to some other clauses. I believe it was Sen. Dhanayshar Mahabir who raised the issue under 25A(2)(a) where a chairperson who is an attorney-at-law is being appointed, and I want to share the view that he has raised. A person who is 10 years at the Bar is being seen to be a proper person, but 10 years at the Bar at what field and I want to agree with him. It is a criminal attorney? I am a criminal attorney. I studied criminal law, I practise criminal law. I also practise intellectual property. So when I make 10 years, does that make me qualified now to be a part of this tribunal? So what kind of lawyer are we going to put here? What if a person is from maritime law who understands the law of the sea, but he sees that as 10 years qualified? So that is very vague and we must be very careful when we come to vague legislation to be brought into the Parliament. I would have expected that the Attorney General would have advised in some way or somehow with this, but I cannot say further than that. As you can see, Madam President, I understand legal drafting. I would have done legal drafting.

So the Government needs to understand that this is a very complex section. It is very vague, so it leads to too many questions. I think Sen. Roach himself raised it as well. So it is not only from the Opposition Bench has raised it, it is those of who are independent thinkers. So I have to ask the Government that they must pay attention to that. That is very, very, very troublesome to me. Also, I heard Minister Le Hunte talk about, "Well, the tribunal will sit. There will be a ruling and if you have a problem with the ruling they can go to the High Court." They can go higher and higher and higher, but, Madam President, does that make it fair? Does that make it right? [*Desk thumping*] The answer to that is, no. The

answer to that really and truly is no because I will come back again to the court of the IPO, where, yes, it is a quasi-court which is ruled and they will give a ruling, but it is a ruling of a person who is truly independent of any politician.

So when they make their ruling and it goes higher, if a person decides to go against it—and there is a very famous case with that which is known as the Jack's case. So we have to very careful with these things because the nation is listening to us, where they say well anybody could come. You “don't” like the ruling, well go to the court, but that is easily said than done, Madam President. That is easily said than done because if you decide to go to the court, three things must come into play, one, that person must decide to get a lawyer; two, that person must decide to have the money to pay a lawyer; and then three, that person must be willing to take this matter all the way to the end because we know how sometimes matters can go at the court. They can take a month, a year, or even some more years.

So, Madam President, it is easy to see these things, and I speak from my own experience where you have to go before the courts. I am also very disturbed when I am hearing these things from the Government side, but that that is all the people could do. But if you are thinking that is all the people could do, then why do it like this? Why not go to the people and meet with them first, and discuss it with them if they are willing to do things like this. [*Desk thumping*] Where were the consultations? This Government even in its previous incarnations today, they talked about doing work for the people, working for the people, but when they bring the legislation here it is not people friendly. [*Desk thumping*] It is not for the poor man because the poor man—Madam President, I can tell you right now I have people right now who cannot afford legal fees. So out of my own heart I would say, “Listen, we would do it for free”.

Sen. Obika: You are a good man.

Sen. B. Baig: Well, I do try. Madam President, we must always look at what the poor man, that the man on the Clapham bus, the man who is riding the coco bens bicycle. These are the people of this country we must also consider. Not the persons who are in yachts or in high-rise homes. Those are not the only people. You know why, Madam President? Because I heard Minister Le Hunte talk about \$5,000. Madam President, \$5,000 for some people cannot even be a month's salary for them because some people are under that.

We are also hearing the \$500 is what? That was nothing? That was nothing. Five hundred dollars for some people is to buy books for their children; \$500 is to ensure that they have a roof on their heads. As much as you all do not know, but there are a lot of poor people in this country. There are poor people who are in serious need of help. So instead of looking to tax the people, try and look and help the people of this country. [*Desk thumping*] As you would have heard Sen. Hosein talked about the issue of a baby grant, you all scoffed and laughed and removed it. So when we look at these things and we talk about that is nothing, so what, who cares, Madam President, \$500 is nothing. But I can tell you, Madam President, up to two days I was in Sangre Grande meeting with some people, talking about this, preparing to come here, and you know what they told me? When I say, well you know there is a fine of \$5,000 now, do you know what they told me? They say, "Mr. Baig, I can't even pay a ticket for \$500. I will pay \$5,000?"

So, Madam President, the Government has to have a heart. They must look into themselves. To thine own self be true, and if to thine own self you cannot be true then I suggest that the Government needs to relook at this legislation and relook at it now. They must look at it. This is a four-runner to the coming of the property tax, and we all know it is a dreaded word to hear. The PNM, it is a

dreaded word for them to hear because it was the property tax—and I would echo the sentiments that I was making—that took them out of office. [*Desk thumping*] So it seems as though the Government led by Dr. Keith Rowley, the Prime Minister of Trinidad and Tobago, is ready to come out of office. [*Desk thumping*] So, Madam President, these are things that they have to look at. These are things that they must realize what is going on.

I want to look at 25G, with the Valuation Tribunal shall—Madam President, someone was pointing to the Bill. Someone was pointing to say if I was coming back. So I am showing him I am coming back.

“(1) The Valuation Tribunal shall—

- (a) hear all appeals raised under this Act or any other written law in respect of the decisions of the Commissioner;”

Now, I like the fact that the respect it is going to be the Commissioner still. Thank God there is still some form of independence being left still.

- “(b) take all steps that it considers reasonable and equitable in...circumstances to effect an amicable settlement of an objection that is...subject of a proceeding and may adjourn a proceeding at any stage to enable the parties to negotiate for that purpose.”

Now they say it here, but again you have a tribunal who is being appointed by a Minister. So what if that Minister realizes that something has come up, what is stopping that Minister from talking to the chairman of that tribunal and say, “Listen, you see this objection that just come, I do not want you to take on that person”.

What is stopping that true chairman from being a true independent person? Is he really and truly going to be independent? That is why, Madam President, I

believe the Judicial and Legal Service Commission should have played a major role with being consulted in this Bill. [*Desk thumping*] I do not know if they have been consulted, because if I am a chairman and I realized that someone has come and opposed an evaluation and their evaluation is true, I in my own heart, my heart has started to beat for them and bleed for them, what is stopping that Minister who is draconian in thinking, heartless in thinking—I am not saying any of them are here, Madam President. I am not saying that. I hope no one says I am saying that here. But what is stopping a Minister who thinks like that and tells that chairman—are we hoping that the chairman has the gumption to tell that Minister, Minister go back upstairs in your office, let me do my job in independence? Can we expect that, Madam President? I am afraid I do not think we will see that, not with what we have been seeing of late and happening of late. So I am a bit concerned with that. So I am asking that the Government needs to look at that. That again, we have a lot of commissions who were independent who can help with this, and again the JLSC must be looked at.

Members of the Government, I am asking you here now, remove this Bill and go back and meet with people, meet with people, meet with the people. [*Desk thumping*] We had a saying, we serve the people, but I am saying you all go there and meet with the people. [*Desk thumping*] And if you think the people I mean is only the mere man only, no, do not get me wrong. You have agencies to go to. Has even the Law Association of this country been consulted with this Bill? I will wait to hear from that. I do not think the Law Association themselves has been—I am a member of the Law Association and my association has not said anything on this with this consultations. So I am a bit disturbed with that. Very disturbed.

I want to go back again to the Bill. So we are looking again under 25G(3):

“The Valuation Tribunal may, on its own initiative or on the application of a

party, refer a question of law arising in a proceeding before it for determination”—of—“the High Court.”

And (4):

“Where a question of law arising out of a proceeding is referred to the High Court, the Valuation Tribunal shall not—

- (a) make a decision to which the question is relevant until the question is determined by the High Court; or
- (b) proceed in a manner, or make a decision, that is inconsistent with the determination of the question by the High Court.”

So, Madam President, all this that we are hearing here is legislative fluff as we call it, where people who do legislative drafting, this basically is saying if the tribunal does not understand something here, go to the High Court. Go to your High Court and hold. Then you are wasting time here. This is precious time being wasted.

4.35 p.m.

Instead of it doing here, well hear what, why not go to the court first of all and forget the tribunal? Why not do that? But you are wasting proper time, Madam President, because you are then going to hold on it, send it up to the High Court and then hope well, let us hear something from them and we will hold on it. And then who is suffering from that? Who is suffering from that? It is the people who have to wait for that valuation because they have to now go to the High Court, hope to hear something from there and then go back. I throw it out to the Government and tell me if this is something that is different to what I am saying because we have seen this before. We have seen these things before so we must be careful where you want to just put things in legislation because it sounds good but when, in fact, it really sounds really bad. Legislatively, it sounds bad and legally,

it sounds bad.

Madam President, I move on. Madam President, how much time do I have?

Madam President: You have until 4.52.

Sen. B. Baig: Thank you. [*Crosstalk and laughter*] Yes, thank you.

Madam President, we look at again—there are some more things to look at. If you look at the Schedule, I know many Members talked about the Schedule but the Schedule, for me, it reeks of personal information that is coming out that I do not think needs to be put here. If we look at Schedule II where it says—under “General”, 2(e):

“What is the Registered Deed or Certificate of Title registration?”

Now, Madam President, I am going to be very honest with you. If I am a man who is not of right-thinking—now when I say right-thinking, I mean a person who is of the normal man on the Clapham bus and the first thing he sees here: what is your deed—there are people who hold on to those documents for mere life because a deed is something important to people. A deed is something that shows that this is their property, that this is their ownership. So if they come to put this number here, you could imagine—now, Madam President, we have had instances of persons losing their deeds because how? Due to some fraud, a person was able to get the deed number. How do we know that a person who is putting their deed number here is truly protected? How do we know that? Is the Land Registry department of the Ministry of the Attorney General and Legal Affairs, are they going to make sure and see that people’s deeds are properly protected? So, Madam President, I have a problem with this because if I had to see this, I was in two minds to put it. I would have been very afraid. I would have been scared of my life to put this, I would have been scared.

Because, again, you have people who are in their 90s, in their 80s, in their

70s, who have lived all their lives for their property. There are some people who now may have just gotten their deeds who waited all of their lives through their grandparents, their parents and now them and they have gotten it, to now come and have to put that here. Right, a deed number. [*Interruption*] Right, I am going to come to that. Thank you, Senator. I was saying this, Madam President, even if you are putting a deed number, you are still putting the deed number.

Madam President: Senator, can I ask you please? I am hearing you and so, could you just lower your tone a little bit? Thank you. [*Crosstalk*] Passion notwithstanding, [*Interruption*] passion notwithstanding, please lower your tone. Thank you.

Sen. B. Baig: Yes, Madam President. Forgive me, that is the advocate voice in me, my apologies. [*Desk thumping and laughter*] Because as a court advocate, you know sometimes you have to let the voice be heard, speak from the diaphragm. So my apologies, Madam President, I am sorry. And I notice the way I am speaking, it is irritating others because the truth hurts and the truth will also feel in their bodies.

So, Madam President, a deed number is still a deed number because we have to understand that man's own worst enemy is man. You understand what I am saying, Madam President? So if I put that there, "ah uncle, ah chacha come and put that"—you know what "chacha" is, right? [*Crosstalk*] Right. Goes and put that there, he has to properly be of the awareness that nothing is going to happen to him, and he does not have to one day find out that somebody else has a same deed number as him. And those of you who do not practise in the courts, that happens. That happens. So we must be the guardians of people because, at the end of the day, we are dealing with people's property and when we are interfering with the rights of people's property, we must come proper, we must come correct and we

must come right. [*Desk thumping*] We must, Madam President, because at the end of the day, what else do we have but our property to give to our children and our children's children? There are some people today who do not have that. They do not have that.

Madam President, if I may continue and we are looking again, under No. 3, "Residential Building Rental". Now, again, if a man who is not renting has to come and look at these things, this is not needed, this is not necessary, so is he going to put N/A? Has people been told how to go through these forms at all? Has the Government gone on a public awareness? Or are they waiting for it to come through the Parliament and then it passes through the Parliament and then it goes out there and then go one day on TV and some Member of the Government talk and go through all of this? But then not everybody will see them. So have they done that? Has the Ministry of Finance done that? I hope the Minister could answer me on that.

Madam President: Senator, you have 10 more minutes and I want to give you a little advice because you are starting now to repeat a lot of what you said earlier. So I need for you to either bring your points together and you move on to new points. Okay? All right, so you have 10 more minutes.

Sen. B. Baig: Yes, Madam President. I will also go to another part of the Bill—I am leaving the Schedule now—in which the Government gave a definition to that of "owner". So in definitions, we have dictionary meaning and we have the legal. So under clause 3(a)(iv), it says:

“ ‘owner’ includes the owner or occupier of any land, or the receiver, attorney, agent, manager, guardian or committee of any such owner or occupier...”—of such—“other person in charge or having the control or possession of any land in the right of the owner, or having the possession in

his or her own right or as guardian of any person of any such land;”

So, Madam President, I believe that this definition has been seen as a catch it all, to put in everybody. But when you look at the legal definition of “owner”, I want to say it, it means “entity that has an enforceable claim or title to an asset or property and recognized as such by law”. So, Madam President, I have just told you what the legal definition of an “owner” is and this so-called definition of what “owner” is. This definition has a lot of problems here because I want to also tell you that there are persons who hold something called a CoC, Certificate of Comfort. Those persons are not real owners but they are occupiers, so you are throwing them under this legislation? Madam President, to me, that is heartless because a person who has a CoC, they have to go through a lot of problems to even first get that done, and then you have some people who are seen as squatters. So, are squatters being put in this? I ask the Government here. Is a squatter being now seen as an owner because they are seen as an occupier on land? So this definition has me very worried. Because if this becomes law, if this becomes law, what about tenants, renters? Do they fall under this as well? Because I am not seeing anything about renters but a renter is a person who is in occupation.

So, again, the vagueness, Madam President, too many questions being asked in legislation and that is not supposed to happen in legislation. You are not supposed to have too many questions because at the end of the day, legislation must be done so that everybody, from the man at the top to the man at the bottom can understand it. [*Desk thumping*] And with legislation, there must also be some form of fairness and equity and in this legislation, I am not seeing fairness and I am not seeing any real form of equity. [*Desk thumping*] I am not seeing it. Madam President, I listened as well, the Attorney General talked about a lot of things, but all of this, this deals with ownership of property and property is something we

must not play with, because someone said here earlier, you play with someone's property, you are playing with lives and we do not want that to happen here.

With these few words, I want to tell the Government of Trinidad and Tobago that it is time that you get your act together. It is time that you put the priorities of the people of Trinidad and Tobago first. It is time that the people, the poor man be looked at. It is time and really and truly, not only a significant section of the society must be looked at and I want to also echo the calls of my colleagues and I want to say that it is time, Madam President, that this Bill be forthwith removed immediately.

Madam President, with these few words, I say thank you. [*Desk thumping*]
Sen. Stephen Creese: Thank you, Madam President, for permitting me to rise to speak on the Bill, an Act to amend the Valuation of Land Act. I want to begin by referencing my old neighbour, Fyzabad resident, Minister Le Hunte in his reference to old age pensioners and their receipt from his Government of \$3,500 because I find it is indicative of the lack of a coherent overarching philosophy that should guide this Bill and the other related Bills dealing with the whole property tax issue. Because I left school in 1972 and started to work and I think that is the year NIS came out so I have been on the NIS system ever since until my retirement and NIS pays me \$3,000, not \$3,500. So for working all those years and paying contributions I am rewarded with \$3,000 and the old age pensioners, whether they work or not, they get more than me. So it is that lack of a philosophy of equity and fair play and just reward that undermines some of the seemingly good efforts but they say the path to, you know, that place is paved with good intentions. So I am not doubting their intentions or imputing improper motives, I am merely assessing the consequences.

And it is in this sense, the lack of a perspective on valuations, of a base

theory on valuations that has led to this mishmash that Sen. Shrikissoon referred to, you know, of the competing approaches to land valuation emerging in different aspects of the Bill and, therefore, at the end of the day, creating more confusion than resolution. And that, to me, is a concern, you know and it is that failure to have a set of core policies and philosophies that keeps tripping up this regime.

It came out with the Attorney General's contribution with respect to his citations of comparative situations, as he claimed, where tribunals are being appointed or are due to be appointed by Ministers as opposed to the Presidents or the Office of the President and, of course, he referred, in that regard, to the psychiatric tribunal under the Mental Health Act, the Emergency Ambulance Services Act, the Civil Aviation Act. And while he was listing these off, my mind was actually running on the National Lotteries Control Board, because in the case of the National Lotteries Control Board, which is, in fact, a regulatory authority, they, in fact, operate a lottery and to me, that is a conflict of interest in terms of the separation of powers.

So the whole question of what should fall to the Office of the President and what should fall to the Executive is up for debate, and it is obviously exposing that there is not a grounded philosophy, a clear perspective, guiding how legislation is drafted, how legislation is shaped. Good. Because here you have a regulatory body actually presiding over its competitors because to have an ad that has some kind of lottery or raffle in it, you have to apply to NLCB. So, again, there is the need for a clear well-thought-out philosophy that should guide legislation and particularly pieces of legislation like this.

The other thing that I found quite striking in all of this, again, dealing with the whole question of a well-thought-out and rigorous and robust policy position comes up on the question of fines or fees and you know. At clause 5 on the whole

reference to deleting the word “hundred” and substituting the word “thousand”, the debate on how we should structure fines, what should guide us, and to me, that came up in the Anti-Gang legislation which we recently discussed and the question of the \$20 million or \$25 million fines and so on and what makes a fine appropriate. To me, we need to get to the point where we have a core philosophy on fines. Is it that fines are to be related to the value of the business that we are in or to the level of income that we make? And in the case of possible criminal activity or perceived wrongdoing as per some legislation, what should be the nexus? What should it be grounded on?

And even then with the Anti-Gang Bill, my point of view, it should be linked to an estimate of the revenue or the worth of the activity that you are involved in and not just a blanket fine and I would take that from traffic fines all the way up to Anti-Gang legislation or in the case of fines, related to wrongdoing or any offences under this Act even. Because to me, if you are saying that somebody has a property worth under a quarter million, which would be what most of the poorer segment of our society would reside in, how should a fine, for whatever offence they commit under this Act, be based as opposed to someone living in a 10-million, 15-million condominium or resort-style domicile?

So I think so many years, 60-plus years after independence, we ought to have reached the place where there is consensus on what our fee and fine structure should be so that it consistently makes sense and that we are not charging one person \$25 million who is engaged in gaming and making that over a long weekend, you know, and charging the same fine to somebody who “pulling bull” or selling doubles or selling sweets around the corner. Good. We ought to have, by this time, come to a more mature perspective on the issue of how we are charging fees and/or fines.

But there is a bigger connection between the two situations, the Anti-Gang Bill and this, because I do not know whether people realize that for much of the 80s and into the 90s, the whole question of land valuation and property development, the rewards and the income generated as a result of property development, how fairly, how equitably those proceeds were taxed. And as someone who worked in the local government sector, I came face to face with abandoned developments. So that people would have made their money, they would have enhanced the value of properties and would have gone off into the sunset and left people with incomplete sewer systems and questionable roads and irrigation and drainage systems in developments, good, and no fines or no consequences came to them. And whether the valuation system that we are now going to utilize at the core of this Bill is, in fact, now finding the residents of those questionable developments that look well but have issues that need to be resolved in some aspect of the State's bureaucracy, in terms of those failed drainage systems, those failed sewer systems that are still existing in those development that we are now going to revalue or upgrade, and whether, in fact, in some instances, they should be devalued, you know, taken down, given what if any buyer who was aware—and “they say buyer beware”, any buyer who is truly aware of what transpired in those developments would really pay for it.

So that at the base of this, there is the whole question of having a clear and well-thought-out perspective and approaches to land valuation and recognizing that in the Anti-Gang legislation, we left out those gangs of land developers who were quite successful in separating people from their money without giving them fair value.

The other thing that struck me in going through this was the question that we are all asserting, listen, if there is this tribunal and quite frankly, I am of the view,

that the tribunal should be appointed by the Office of the President. Not that I am questioning that we may not, from time to time, have Ministers of balance, but I feel that once we are speaking in terms of jurisprudence and we are recognizing the possibilities that—*[Interruption]*

Madam President: Sen. Creese. Hon. Senators, at this stage, we will suspend and we will return at 5.30 p.m.

5.01 p.m.: *Sitting suspended.*

5.30 p.m.: *Sitting resumed.*

[MR. VICE-PRESIDENT *in the Chair*]

Sen. S. Creese: Mr. Vice-President, the whole question of jurisprudence and new perspectives on it, I think should be engaging our attention, not only in relation to the issue of crimes but also the timeframes because one of the problems we keep having is the inordinate length of time matters take within the judicial system so although I have heard allusions to the fact and the question of the tribunal, that people have recourse to the High Court and to the Appeal Court and so even all the way to the Privy Council, apart from being costly, it is time consuming and therefore any activity, and we are talking here about land and possibly for some citizens the sale of these lands.

So therefore if they have go through all of these processes, the question of being—other people being able to obtain mortgages and so on and tax clearances to, you know, convince the mortgage lender that they should underwrite that particular mortgage, there are implications for that process so that apart from the time allowed and we start off with allowing the Commissioner a year in which to handle the complaint.

I feel we should also circumscribe the tribunal with a time frame as well, so as to guarantee the citizen that he will not be unable to do business with his

property, to dispose of it, to discharge of it in any fashion, because he is constrained by, I think the lawyers call it *lis pendens*, a matter pending, you know, with regard to his property. But on the broader issue of the tribunal itself, one of the concerns that I have, with regard to that, is the criteria. I think the legislation is not sufficiently discerning or discriminatory in terms of what are the stated qualifications for membership on the Valuation Tribunal.

I recognize—I would not repeat the points made by Sen. Brian Baig, on the question of the lawyer and the panel and what is his particular, you know, sets of experiences. For me, I would have wanted that section to start off by insisting, of course, that the member of the tribunal should be a citizen. I see no reference to that here that says citizenship status, and I think that the first qualification should be that you are a citizen of the country. And then the question as to whether or not you have any kind of criminal history, that is, that there should be no prior convictions, good, I see as being a relevant qualification. And if we are saying that bankruptcy should be a disqualifier, then it should also be in the list of qualifications; there should be no bankruptcy matters pending or in your past, if you are to, you know, qualify for membership of this tribunal. As a matter of fact, I think it should be plainly stated that you should not have been guilty of an offence involving dishonesty if you are to qualify for membership on the tribunal. So there is need to really take time out and review what are the particular qualities we would like to see in members of the tribunal.

And, of course, I support the perspective that the time frame, the term of office, the tenure, should be five years and not three. Good? Again, given the time span for legal matters, given all the issues that are involved in land registration matters and the time frame for those of us who had to visit the Registrar General's Office with regard to registration of deeds and transferring of titles and so on, three

years is no time at all.

So that in preliminary activities, with regard to any tribunal matter, three years would fly. So before the person even gets accustomed, has handled one or two matters, he is on his way out. And we know we have a problem in Trinidad and Tobago with the handing down of judgments on a timely basis. So, are we setting people up to start a matter that they cannot finish? So it has to be nothing less than five years. Three years really does not fit into the time frame that we have been functioning in, and this is not the place to experiment with time frames.

And then the whole question of removal of members. I am of the view, although I know, and in many instances where the law or the regulations say Minister, it is in fact the Cabinet, and when we speak of Cabinet we all know that nothing occurs in a Cabinet without the clear approval or consent of the Prime Minister, but I feel because it is a tribunal, the Prime Minister should be the one to trigger any removal, you know, or cause should be triggered by the Prime Minister and not the Minister himself. So talk of the Minister may suspend a member of the tribunal, I do not think that is the way to go. Just looking at it on the paper, I have a problem with how that sounds. So that it should be the President appointing and the Prime Minister, as the Head of Cabinet and the Executive, being the one to trigger the review of the validity of any, you know, the continued membership of any member of the tribunal. And of course, well I agree with the provision that bankruptcy would be a ground for removal or subsequent conviction for any offence involving dishonesty.

Again, to return to the question of fines, I would want to draw your attention, Mr. Vice-President, to section 25 and that would be 25H. And I am looking at B and C, the whole question of what would happen or what should happen if there is a failure on the behalf of any citizen, any person or any body

corporate to comply with the request for documentation, the subpoenaing of documents by the tribunal.

I think the power of institution and the response, given the culture in which we operate, to the tribunal would have to relate to the power the tribunal is perceived to have. We have a culture here where people tend to obey the laws when the police are on the beat. And if we recognize that, then there is no point setting up a tribunal, if we do not give them the mechanisms to police the powers that are supposed to reside in them.

So I think we should copy from, I think it used to be the Town and Country Planning Act, where failure to comply with a request to stop or discontinue any construction, had a daily fine, the automatic imposition of a daily fine. I think that this is relevant here. And in keeping with the perspective I have on a new jurisprudence, where fines relate to your financial worth or your financial earnings or the value of your property, as the basis for fining, so that when we fine you it must hurt, the same way for, as they say, "the common man" and the more affluent person.

So, therefore, I would want to feel that in default of supplying the documents requested by the tribunal, there should be \$100 a day fine for individuals. Whether this fine to be, whether they are the sole owner or they own a property in common, everyone there who fails to participate in the request for documentation would face \$100 a day fine until they provide the documentation, and similarly for corporate entities, \$1,000 a day as the fine, until they cooperate with the tribunal. I am suggesting this because it is the only language which many of us speak, other than English, the language of fines and punishment. And, therefore, if the tribunal is to be effective, then it has to have that kind of clout.

In closing, Mr. Vice-President, I want to reiterate that I have three concerns

with this Bill. The first is that it should have a different fee and fine structure, so that it would be meaningful and effective; that the Tribunal, which is the justice instrument within this Bill, should be appointed by the President, should have as their basic qualifications, you know, apart from the professional qualification; and I support Sen. Baig, in that even as a lawyer, it should indicate which aspect of the law their 10 years of experience should, in the main, relate to. That, of course, to be appointed by the President, and be removed by the President, and that I would add to the qualifications, the whole question of not being bankrupt, or not being convicted of an offence, especially offences related to honesty; and that the fines for failing to respond to the tribunal should relate on the individual basis, \$100 a day, until they free themselves of the contempt for the tribunal; and for corporate entities, \$1,000 a day, until they are devoid of contempt for the tribunal.

And finally, that there should be time structures, because without time structures, time, yes, there is a provision here for a one-year response by the Commissioner. But the tribunal should also be mandated to deliver within a specified time frame. And I am suggesting that their time frame be one year. Because we are looking, that if they use up most of that year, it would have been two years; the year they spent at the Commissioner's office and then a year spent at the tribunal. That is a long time to have somebody's business enterprise, their financial possibilities, tied up. Because we are talking about land, and we are talking about if you are going to be able to dispose of your land or to do any major transactions with it, the mortgage and financial institutions would require that you provide some kind of tax clearance certificate, which will not be available if you have a tribunal matter pending. I thank you, Mr. Vice-President.

Mr. Vice-President: Sen. Richards.

Sen. Paul Richards: Thank you, Mr. Vice-President, for the opportunity to

contribute to this Bill, the Valuation of Land (Amdt.) Bill, 2018. I know I promised in the past that I would be short, and I will be seated by 6.00o'clock.

Let me start by saying I just have three concerns. The fortunate thing is that so many have spoken before that I do not want to be running afoul of the Standing Order related to tedious repetition. But just three main points and general principle, in terms of the issue of land valuation, which really is the foundation of the Bill, which I am presuming in the Government's perspective will be debated on Friday, which is the property tax and they are, to me, inextricably linked. But when you think about it you cannot do one without the other. So really and truly, in my Perspective, they should have been debated together, but that is all academic now.

You know, on principle, and just referencing Minister Le Hunte's contribution, or part of it, where he indicated that, you know, this is part of the Government's obvious revenue generation, in terms of tax collection, and it has been in abeyance for a number of years, heading toward 10 years, which really puts it in the category of an unaccounted for subsidy to the population, when you think about it. Because it is money that should have been going into the national coffers, which have not be going.

But then, in principle, when you think of valuation and property tax, and I will try to stay away as much as possible from property tax, citizens should contribute their fair share. So the valuations have to be done. We have to go through a transparent process to get that done, and then properties are taxed so that the Government can get the tax. But what are citizens getting for that?

Minister Le Hunte spoke about sharing the burden of the times that we are in. But, if you are paying your fair due and you do not have any tax, I think there should be certain expectations on behalf of the population. Because the

Government has put certain measures in place to ensure that people comply and to ensure that taxes are collected. But does that mean that citizens who are going to be compliant, or who would be forced to be compliant in some cases are going to get the benefits for it, including proper roads, drainage, recreational facilities, disaster response mechanisms, effective ones at that, and protection from undesirable aspects of living in some of these areas, you know. And I am not sure that is always the case in these scenarios and we need to look at that. We need to look at: Are people getting what they should from the State when they are compliant? And they should be compliant.

Part of what we need to do is make sure we have the mechanisms and the resources in place where this particular Bill and the mechanisms contained therein are in place to make sure that we can actually do what the Bill is intended to do.

One of the—and I said there would be just three short clauses that I want to reference. The first one has to do with clause 5 of the Bill, which will amend section 6 of the Valuation of Land Act, Chap. 58:03, to increase the penalty of the failure of the owner of the land to file a return of the land from \$500 to \$5,000. And I agree with several speakers before. Minister Le Hunte spoke about the fact that we do not want it to be a light amount because it needs to encourage people to be compliant. But laws need to be applied to have equal affect across the society.

And somebody, as Sen. Creese indicated, who has a \$14 million house, who has an income in excess of \$X million a year, that is pocket change for them. So that is not going to be a strong incentive as somebody who has a much more moderate income. So I think that needs to be looked at in the context of it possibly being tied to income level or property value, so that it has the desired effect and the desired effect is obviously to ensure that people file their returns on time.

So that, if you think of the \$5,000 fine on one instance for one part of the

socio-economic group compared to the other, it is really not an equal distribution. And laws need to be applied, or seem to be applied, equally.

And when you think of land and valuation of land, I mean it goes back. It is really one of the fundamental rights enshrined in our Constitution, where you knew at one point, in terms of the landed gentry issue where the value of land cannot be underscored or understated, I should say, enough. Land meant rights to vote, legacy for families, security and the opportunity to move ahead in society. So, these provisions need to, at least, seem to be applied equitably across different sectors of society. So I am hoping Minister West can address that in her wrap up, in terms of possible caveats or amendments to that particular clause.

The other part of it that I would like to address is clause 6, which inserts a new section 7A, which would require the Commissioner, where he is of the view that more than 50 per cent of all lands in Trinidad and Tobago have been valued and that valuation should take effect to notify the Minister who would, by Order then declare the valuations are in effect. And given my experience in this country, it may seem very palatable and doable on paper. But getting to the point of 50 per cent compliance may not be as easy as we think it is, given the resources.

I remember a couple of months ago, the hon Minister of Planning and Development answered a question graciously and she spoke about challenges in local government in just getting people to stick to the rules and to getting local government agencies to have the resources to value properties, so that that aspect of it can be completed after this, hopefully is done. So, I do not see that that is as easy as it seems on the face of it. If we are thinking of the number of years that this has already been in abeyance, to get to the point where more than 50 per cent of the lands in Trinidad and Tobago have been valued or filed. It is going to be a challenge of sort. But I mean we have to do it. But what are the mechanisms to

ensure that is done in the shortest possible time, so that the Government can indeed start collecting property tax after these properties are valued. And that, to me, we need to look at, in terms of resources and mechanisms by which that intent can be actually operationalized.

The other aspect of it is what many others have referenced before, and that is the tribunal. And, in principle, I think the Tribunal is a great idea, in terms of the evolution of this situation. But, again, I do not see the aspect of having Her Excellency appoint the tribunal or at least the Chairman going in contravention to the intent of the tribunal. And very often societies look at situations like this where it seems that more and more power is being reposed in the hands of the Executive and we are taking out more checks and balances.

One of the questions, I think the Government needs to contemplate on, and this is not casting aspersions as to the Opposition or the present Government. But would you want that situation, if you were in Opposition? Would you be comfortable with that situation? Because we cannot make laws for now or who we know is in power or who we have confidence in, but we need to make laws that protect the society, no matter who is in power. And I do not think that putting an amendment that Her Excellency is reposed with the power or the responsibility to appoint a chairperson of the Tribunal is going to nullify the effect of the amendments in the Bill or the Bill itself, or put any roadblock in the Government's way whatsoever, going forward. I think we have all echoed praises to the credibility and competence of Her Excellency and generally we have that confidence in our Head of State. So I do not see why that would be anathema to the intention of the Bill, in terms of where the Government wants to go with this.

I got a nice quote that I think can lend some credence here by Reinhold Neibuhr, which says, and I quote:

“Man's capacity for justice makes democracy possible. But man's inclinations to injustice makes democracy necessary.”

And we need to make sure that the population feels that we are using all the instruments of State possible to ensure that there seems to be checks and balances in place at every step. So I am hoping that Minister West and the Government considers that also, in terms of possible amendments, when we reach committee stage, which I do not think, as I said before, is going to be anathema to the intention, as espoused by Minister West in her piloting the amendments.

One of the other points that I want to quickly mention is the issue that my colleague, Sen. Shrikissoon mentioned, which is in terms of the disclosure, the level of detail of disclosure of the forms which, if you understand rentals and property values in Trinidad and Tobago, change so quickly. People could rent something now and they may file it today and it is accurate as they know it. And so many circumstances on that form can change by the time it is checked and vetted by the Tribunal, if that comes into play. That would make the person liable for inaccuracies on that. So, [*Interruption*] well, willingly, yes, I understand that, Minister Le Hunte. But you know, I am not a legally-trained mind, but willingly suggests some sort of intent. And I do not think intent is that easy to prove in law. So how are you going to say well they willing misled you?

Finally, because I promised to end at 6.00o'clock, you know, the option that the AG mentioned, in terms of yes, going with queries to the court, the High Court, the Appellate Court and then possibly the Privy Council, is a great option. But one, many people spoke about the cost involved. And if you think about the situation and, of course presently, and we have, according to your suggestions Minister West, through you, Mr. Vice-President, 700,000 outstanding valuations. If we take 10 per cent of that and say well, there are queries that is 70,000. If you

take 5 per cent of that, that is 35,000. Can the courts cope with that onslaught in a timely manner? We are just adding more burden to the court system.

So I do not know that that is going to be a feasible way going forward, in terms of the consideration with that. I mean, it is admirable that people have that option. But you know, we probably need to put some sort of other caveat in place where we can expedite that situation, so that we do not end up just adding another layer of bureaucracy and problems into our already overburdened, and in some people's estimation, failing judicial system, where we want to expedite these situations to the benefit of the State in general, you know.

I would have liked also, in closing, to see this kind of Bill done in the context of a comprehensive land use policy in Trinidad and Tobago. Because if we had a sense of what we plan to do with lands X and Y, and the developmental plan regarding those lands, people would have had an idea of, well, my property would be worth X and Y because development A and B is coming up, you know, and that would also bode well for the real revenue-generators moving forward, when the property tax is debated, which is the commercial and industrial plants where, to me, the bulk of the money is going to come. So if we had a comprehensive land use policy and development plan and yes, there is some indication in Government's 2030 vision. But it is not as comprehensive as it should be, in terms of a land use policy.

So, with those few words, Mr. Vice-President, I am 10 seconds shy of completing my first confirmation of being short and I thank you for the opportunity to contribute.

6.00 p.m.

Sen. Taharqa Obika: [*Desk thumping*] Thank you, Mr. Vice-President, as it is my distinct pleasure to accept the privilege to contribute to this very important Bill

in the timeline of our history in Trinidad and Tobago. This Bill, regarding the Valuation of Land (Amdt.) sets the foundation for the property tax that this Dr. Rowley-led PNM Government wishes to foist on the population. And I want to start my contribution by reminding persons in the national community and, of course, Members of this House, the economic circumstances which we find ourselves in, and also the financial benefits that may be derived from any tax, and make a comparison between what is being proposed with this eventual tax because this sets the stage, as I say, Mr. Vice-President, for the property tax using figures.

So, if you look at the Ministry of Finance estimates of expenditure, the revised and the final: 2008, taxes on property, the actual taxes on property that were generated amounted to \$83.8 million. The total taxation revenue stood at \$49.3 billion. So this tax on property stood at a mere 0.17 per cent or 0.2 per cent which is 2 over 1,000. For persons who may not be mathematically inclined, it is significantly less than 1 per cent of the total tax revenue that the Government would have generated in 2008.

In 2009, we see a similar figure even though the tax on property declined by only \$12 million to \$71.4 million, the total taxes collected by the Government amounted to \$31.4 billion, a significant drop in taxes collected by Government. But these taxes on property only stood at 0.22 per cent of total taxes.

So, really and truly, the taxes on property, for any serious administration contemplating financing the fiscal agenda, taxes on property, in the history of Trinidad and Tobago, really does not arise in any significant manner.

Now, one can argue, it may more serve an administrative purpose than a revenue-generating purpose. So, because really what do we seek to do? What is the spirit of any taxation policy in this country? There may be other jurisdictions where their legislators have differing opinions on the role of taxes, but the way in

which taxes are administered here is a function of the spirit of that.

For example—so let me finish this analysis before I give that example. For example, in 2010; when we looked at, in 2010, the property tax was proposed by then Patrick Manning administration, who has now joined our ancestors.

Mr. Vice-President: Senator, I allowed you a little leeway to sort of tie in what you are saying to the land valuation Bill that is in front of us. I am hearing you talking about property tax and I just want to remind you that you can run afoul of the Standing Order dealing with anticipation of Bills that are to come.

The Valuation of Land Bill and the Property Tax Bill are being debated separately, so I would like you to focus on the land valuation aspect of the Bill that is before us when you are making your contribution. Thank you.

Sen. T. Obika: Thank you, Mr. Vice-President. So in essence, the spirit of taxing and land really starts with an understanding of what land is and the Bill before us really sets some parameters; you have included multi-household dwellings to widen the net if we may, to present to the country an opportunity to increase tax revenue.

But, and one of the main issues that was raised and I am glad for your guidance and I will bring this up in the next debate. But, the only thing I want to say is that, really and truly, we should not be thinking of revenue when we are dealing with this issue here. Because taxes on property does not generate significant revenue for fiscal policy in Trinidad and Tobago.

Now, one of the main issues that was raised today by all sides—I have heard Sen. Roach mention it, I have heard the Minister in the Ministry of Finance, albeit I have some challenges with the hon. Minister's understanding or articulation—the issue we have is equity. Now, if we look at some of the literature and this one, for the record, is an article titled: “Review of Local Government Rating System in Fiji

(A Preliminary Study)” by Pacific Rim Real Estate Society at an annual conference in Adelaide, 21—24 January, 2001. So, as the history of land valuation is concerned it is fairly recent. It said that in dealing with the demerits of an assessed annual value system regarding rental value and I quote with your permission, Mr. Vice-President:

“Another effect of the rent control is that it distorts the distribution of the tax burden. In effect rent control constitutes a de facto exemption of the older properties from the property tax.”

I have some issues with that but, and they continue—

“This shifts the tax burden onto more recently built properties. The owners, or occupants, of a new structure are”—in effect—“subsidising the tax of older properties.”

So let me paraphrase and break it down for the average Trinbagonian listening. The hon. Minister in the Ministry of Finance, Minister Allyson West, stated—one of the things the hon. Minister stated, Mr. Vice-President, was that this Bill will empower young professionals—and I am paraphrasing, I stand to be corrected, if I am paraphrasing incorrectly—will empower young professionals to engage in the market, regarding the property market.

But, I want to submit, if you really want to help young families, the real issue is to fix the bureaucracy that pervades regarding the purchase and holding of land and property development in Trinidad and Tobago, a new law on an old system that does not work, provides no solutions. So, it is a new law with a failed old system; it fixes nothing.

Mr. Vice-President, now I am taking my time because this issue is something that has brought great consternation, confusion amongst the population. I had one conversation with a member of the Association of Real Estate Agents,

and what basically came out of that was they were confused, their members were confused; and because of the vagueness of the information coming from the Government, they are at odds to clearly define what exactly should be the guidance they can give to their members, and these are the real estate agents. So, if the persons who are involved in the purchasing and sale and the articulation of valuations by valuers to the final buyer, who are the real estate agents, themselves are at a loss to explain what is coming out regarding the legislation, the average citizen should be further at sea.

So, it is as a result of that, that I am taking my time to develop the points. So, Mr. Vice-President, getting back to that initial article that I cited from the "Review of Local Government Rating System"; they said that the new structures basically face an inequitable tax burden and that ties back in to my first point that all contributors to this Bill, spoke on the issue of equity.

Now, this Bill is definitely crafted, not in an environment where equity is the main consideration. Members have quoted ad nauseam, the clause regarding the increase from \$500 to \$5,000. I do not need to add my opinion there, because it is clear for all that that \$5,000 may be someone's savings for two years, if there is a household that is on minimum wage, or if it is a single parent who is a [*Desk thumping*] clerk in the public service, a junior clerk, in the public service. So if you are a junior clerk and your salary, your take-home does not cross the minimum taxable range for an employee, you will be at pains, really and truly, especially if you are a single parent, to add anything else onto your list of expenses.

So, Mr. Vice-President, in the interest of bringing some level of general understanding to the specific income constraints of the small man, I have taken it upon myself to bring a simple example of how \$500 may be an onerous charge, and how \$5,000 will be significant.

Mr. Vice-President: Senator, at this point in the debate, we have heard a lot from other Senators that have contributed before in relation to the point that you are developing now. Even in your contribution, you just indicated that you have heard it over and over again. You are going to run afoul of the Standing Order on “tedious repetition”. If you have other points to develop in relation to the Bill that is in front of us, I do invite you now, to bring them forward, but we have heard quite a bit, in relation to the point that you are making right now.

Sen. T. Obika: Okay. I thank you. I guess that is the benefit of going down the batting order, Mr. Vice-President. Now, so land tenure systems and market data. So there is another article from the “Rental Value versus Capital Value: Alternative Bases for the Property Tax” by William J. McCluskey and Michael E. Bell, of December 2008; and they are making the point, Mr. Vice-President, that the choice of tax base should ideally be linked to the land tenure system, and the most common form of landholding in a country. It has already been established, that we are not blessed with a common form. There are many different forms, and it may be difficult really, to ascribe a particular method to either. So that is a challenge, and that challenge I must say, is not being addressed, especially based on the contributions of Members before, in the legislation.

Now, I want to turn to an important aspect of “Taxpayer Perceptions”. I need to read this because I have not committed it to memory.

“Under any tax system, taxpayer understanding is central to having an acceptable system. The basis of the tax and the transparency of its assessment needs to be easily understood.”—So—“A good example of the lack of taxpayer comprehension was the use of the hypothetical gross annual rental value system that was used in England for residential property. This hypothetical gross value was based on very few actual rents that made it

difficult to explain to taxpayers, simply because they did not relate the value of their house to an abstract hypothetical rental value.”

That would be, rather, that they did not relate the value of their house—for the *Hansard*.

So, Mr. Vice-President, despite continuous attempts by the Minister of Finance to explain the system, there is no clarity; it has brought no comfort to many persons. It has definitely not brought comfort to some members of the Association of Real Estate Agents, who should by now be comforted and be well established in the rubric that will be used to arrive at any tax.

So, the entire nation in essence is held in suspense. So, I leave that there and if we are to understand that taxpayer perceptions are integral to having an acceptable system, then we must admit that there is a significant problem with this current Bill.

Now, Mr. Vice-President, there is another point on equity, since this is the common thread I have chosen to apply in my contribution. In public finance there are two perspectives on equity, this article continues: These are the ability to pay and the benefits received—principles of taxation.

Now, I would not go too much into the benefits received because that really would form my contribution for a Bill to come which we already went through. All I would say is this. If all the taxes go to Corporation Sole and they do not come back into your community by virtue of the legislation, then in sense persons would feel at pains to even pay taxes on property; that is number one.

The other thing is the ability to pay—many members went through this point and I remain guided, and by your gaze I know that I will not run afoul of the Standing Orders, Mr. Vice-President. But, really and truly, there needs to be a consideration for persons who cannot afford, and if that is not there then this tax is

not equitable. This Bill is founded on a foundation that lacks an acquaintance with the principle of equity.

So, I move on, Mr. Vice-President, I want to make some points, because this Bill is a matter of public import. And, I think I want to make this main statement: If we are to be concerned with the public and their ability to develop you must be concerned with their main concerns, which would be the income pressures on households, rising unemployment. You have already seen a significant decline in the number employed based on the statistics presented by the Central Bank which they would have gleaned from the CSO, as at 15 months prior since this PNM Government has come into office. We have already lost nearly 20,000 jobs, if not more, and that is 15 months ago. We do not have recent data to go by because clearly the situation has not gotten much better since then.

So, if we are to accept that this is the environment that we are living in and we are to accept that the economy has significantly declined continually and we have to accept that businesses are facing continuous closures, we must understand that any new tax given the current taxation regime must bear that there may be persons who definitely will not be able to afford.

[MADAM PRESIDENT *in the Chair*]

So many persons prior—Madam President, as you have returned—mentioned some other issues regarding the tribunal and because that has been hit ad nauseam, I would not be able to venture there.

But there are some points I want to raise regarding the mechanism of annual rental value. Let us picture a scenario where we have an elder citizen, this person may have been very industrious throughout their working life, but they may not have been privy to a pension. So their circumstances have resulted in a situation where the only pension they can glean would be the senior citizens grant which is

\$3,500 and whatever else they may get from family members who may be in a position to assist them. But during their time as a worker this person may have spent their time building a family house with probably six, eight or even 10 bedrooms, which is common in many areas in Trinidad and Tobago.

Madam President, but now they find themselves with only \$3,500 and spiralling medical bills which in the absence of any support regarding CDAP, and what have you, they find themselves hard pressed to even eke out a respectable standard of living. And then you add on top of that, annual rental value and when the assessors come to their homes they see that you have 10 bedrooms and you have compartments, there is about three compartments, because they would have built for a son and built for a daughter and so on, and they assess them at \$10,000 a month; \$120,000 a year, you take out the 10 per cent, \$108,000, and then they take a percentage of that. They may not be able to pay this, which would amount to just over \$3,000.

Madam President, they will not be able to pay that because, really and truly, they are already living on the margins, some of them are hoping to “play a mark” as we say in Trinidad and Tobago—

Hon. Senator: And they tax that too.

Sen. T. Obika: To be able to—they could not tax that, the NLCB went against that. So, they are living day-to-day, when they go to the shop it is a half-pound of sugar, a quarter stick of magazine that they will be buying, a little bit of salt, they might exchange some eddoes in the yard for the neighbour’s green fig.

These people, Madam President, cannot afford anything else any new imposition which would significantly and negatively affect their well-being.

There is a point I want to bring out where this is concerned. Now, Madam President, really and truly, when one looks at this Bill and you consider the

environment of taxation that we are currently faced with, one really grieves for the average man.

There was an article that surfaced in the newspaper, that would have been Friday, August 25, 2017, in the *Trinidad Guardian*, written by Joel Julien, simply reportage, "Valuation assessors ready to hit the road". Now, if one considers logic, we are saying in this Bill that once 50 per cent of property or land is valued the Commissioner can inform the authorities that the lands in Trinidad and Tobago have value.

Madam President, now why are we doing it that way? Why do we not take a concerted approach? If really the issue was to get a full understanding of the property situation in Trinidad and Tobago, so we can make significant and sound economic decisions, why is it not that a full census is the approach that is taken of all the lands in Trinidad and Tobago? So essentially, what they are trying to do is change the wheels on the car while the vehicle is in motion. I am not sure how successful the Government will be with this because, number one, the people of Trinidad and Tobago are fed up. They are fatigued, they are tired with the level [*Desk thumping*] of taxation and they will give little cooperation in the current scenario.

If, however, the people would have been consulted, and in this system we believe that representation is important when taxes are to be imposed. If the people would have been consulted, Madam President, the Government would have found that a simple reversion to the methodology and the regime that pervade under the land and building tax system would have made sense and would have been something that would have been more "palatable".

Hon. Senator: "Palatable".

Sen. T. Obika: "Potayto, potato". I went Presentation College, and we say that.

So, Madam President, the reality is this the people of Trinidad and Tobago are tired. I am confined by the Standing Orders, so I believe I want to look to wind up my contribution. But I want to say this. That I want to echo the sentiments of Members on this side that if we ignore history we will be doomed to allow history to repeat itself and we will be doomed to commit the errors of history. This PNM administration went out of office in 2010 on the heels of a tax on property that the people were not prepared to accept and should they bring this back they will find themselves in the same fate of the then Patrick Manning-led PNM, now the Dr. Rowley-led PNM. Thank you very much, Madam President.

The Parliamentary Secretary in the Ministry of Agriculture, Land and Fisheries (Sen. Avinash Singh): Thank you, Madam President, for the opportunity to contribute in this debate, a Bill entitled an Act to amend the Valuation of Land Act, Chap. 58:03.

Madam President, it has been a while I had the opportunity to stand here and contribute and it would really be remiss of me if I did not offer my thanks to some persons for me being here today, after a long while.

In contributing to this debate, I had the opportunity to get some rest time, as you want to call it, and in that rest time during my little incident that had me down for quite some time, I like many Senators in this Chamber would have had the opportunity to speak to a number of persons at all levels. And, while on medical I also was at work exploring the options of persons, you know, with bills to come, I was doing my homework even at the medical bed and, like many Senators in this Chamber, spoke to some persons.

And, Madam President, the general consensus out there, in terms of property and when we are speaking here to the valuation of property and the valuation of land that will lead to the next step which that Bill, if we were able to debate both of

them together would have been so successful in getting the points across and we would not be in the position of having to repeat and repeat and offer answers to questions that, you know, will arise. But the point is that a lot of persons in this country have had significant challenges in knowing that as a nation like Trinidad and Tobago where we have a civilized democracy that taxes have been, you know, waived and persons look towards the public sector for goods and services and, you know, Madam President, it has to be paid for.

As the Attorney General indicated earlier, and this is one of the ways for us as a civilized population to understand goods and services must be paid from the coffers of the State and this decision to look at the Valuation of Land Act today may not be a popular one, but I indeed say it is a responsible one by a responsible Government.

Because it comes at a time when the current Valuation of Land Act dates back to 1970 and that is some 50 years ago and that existing law, Madam President, allowed for inequity in the rates being applied across the board as there were significant disparities in valuation dates and by extension valuation rates or values. For instance, the rate of tax was significantly different for properties under the Municipal Corporations Act since they conducted valuations at various times, and they were considerably ahead of those under the Lands and Buildings Taxes Act in which lands carried a flat tax rate and required no valuation.

6.30 p.m.

Madam President, where we had flat or sometimes mountainous or even swampy land, they carried a flat rate based on the size without regard for the nature or location. This resulted, Madam President, in a plethora of valuations for property in the country that did not reflect the true value of properties in question.

Madam President, I would spend a few minutes speaking on two major

points that most Senators have had challenges with, and I would just like to share my few comments on both; one being the importance of removing the inconsistencies and lack of clarity where the Valuation of Land Act is concerned. I would spend a few minutes illustrating and demonstrating this point in relation to agricultural landowners and to help clarify the process and how that process works for the agricultural sector where land valuation is concerned, and I will also stick a pin and add my comments in relation to the tribunal.

This whole issue of removing the inconsistencies, the Bill before us is very, very simple and mainly to clean up pieces of the legislation that already exist, and to harmonize the way in which we view all categories of the taxes, be it agricultural, residential, commercial and so on. But, Madam President, I want to ask a question, and it goes directly in terms of the conversations that I had with many persons in public.

The Opposition in today's debate contributed in a manner and a fashion that alluded to the population is crying out about the excessive or the burden of excessive taxes on them and, more so, this property tax or the way in which we are going to value or put a value to land, Madam President. But I want to ask that question, Madam President: When last any one of us in this Chamber and elsewhere paid taxes in relation to our property? And so, when we debate in a fashion that says this Bill before us here today is going to stampede on the rights of our citizens where property and land is concerned, we must be careful, Madam President, to take note of how much money as a Government we have had to forego because of the waivers with respect to this legislation in going forward. And I assume it is in the vicinity of a billion dollars.

So when the Attorney General, this morning, indicated that goods and services in this country have to be paid for, Madam President, I could tell you, the

entire budget of my Ministry, the Ministry of Agriculture, Land and Fisheries could have been run out of the taxes collected from these sorts of legislation, a billion dollars.

So, it is incorrect for the Opposition to come here today and say it is thousands of dollars in taxes, the ordinary man in the street cannot pay this tax, because this, Madam President, has not been put to the test so we cannot say that. And in all demonstrations, when you look at the way in which this Valuation of Land (Amdt.) Bill is going to come into effect and the transparency of this legislation, again, I want to applaud the Minister of Finance and the Minister in the Ministry of Finance for taking this bold step. Some may call it biting the political bullet, but the point I am making is that it is a responsible decision because this country needs it more today than ever before in terms of our position and economic climate.

Madam President, I referred earlier to land valuation in the agricultural sector and, you know, if one were to really listen and take note of some of the points made by my hon. colleagues on the Opposition Bench about taking this piece of legislation, throwing it away, repealing it, do not bring it here and all of that—you would think that they actually care about the population. But when you look at the agricultural sector on the existing valuation and legislation, Madam President, it is replete with inconsistencies. And what do I mean by that? When you look at the current land valuation and the way these taxes were looked at, Madam President, in the City of Port of Spain, when you look at the residential, commercial, industrial percentages, all 10 per cent.

In some areas, Madam President, in fact, where I live, Chaguanas, agriculture under the existing land valuation legislation is categorized under 10 per cent. So if what Sen. Mark and the Opposition Senators, his colleagues are saying

that they care about the population, they care about the agricultural sector, we are proposing a 1 per cent on agriculture across the board. So that alone can tell you where the mind of this Government is heading.

We are serious about the agricultural sector, and when I speak to the agricultural sector, Madam President, where land valuation—when we came into office—because you cannot talk about valuation without getting the whole land tenure issues right—and when you look to what we inherited as a Government when we came into office, something the hon. Minister, our leader today has had to deal with in the Ministry of Agriculture, Land and Fisheries where land is concerned, Madam President, it is scary. But I want to place on record that ably as he is—the hon. Minister that is—has had to work some late nights, early mornings and long hours to put structures and strategies in place so that we could reorganize and link land tenure and fix some of the issues where land leases are concerned. Because persons are questioning, okay, well how are you going to develop figures or rates for agricultural land?

Let me declare my own interest. I am a property owner, and in the valuation of my property, one does not have to look far. I am the holder of a PTA, a Probationary Tenancy Agreement. And, in that, I am required by law to pay some \$400 per acre per annum, and that is a good place to start. So what I am saying, the more people in the agricultural sector have leases in their hands that will, in essence, organize the land management division of this Government in terms of property matters and land matters. Streamlining will be easier and it will be able to help us as a Government to issue more leases, so that all of these persons coming on stream will be able to come under the relevant legislation and contribute to the national coffers.

Madam President, this will also assist us in terms of managing rent

collection, because I could tell you a lot of persons in society are having challenges understanding—well, they want to pay something for the property that they are living in, they want to pay something because they know in their minds when they pay something to the State, that is some form of security. And to get there we have to value that land and property in a manner that would be transparent and efficient.

So when you look at the agricultural leases, as I mentioned, we have given out some 5,000 leases upon entering office, and all of these persons now could be brought under the umbrella of the Government in terms of land and having the land valuations done and be effected. So when you look at the agricultural sector, that 1 per cent, Madam President, as opposed to the Opposition's contribution to leave everything as it is, or do not bring any land tax or do not bring any valuation of land tax and so on, we are harmonizing the entire country and making it equitable so that farmers all over the country now will benefit from the proper value and valuation done on the properties or the acreages that they are on. And I have mentioned, in my case, \$400 per acre and, in essence, that will calculate down to some \$4 dollars per annum which is less than half of one pound of sweet potato on the retail market right now. So you understand the point I am making where we speak about it is going to tax you out of your lives and you are going to be on the streets, Madam President, but it is extremely far from the truth.

Madam President, while I am on this matter, I would like to indicate that as a citizen of this country—and we are talking about the way we value our lives, the way we value our land and so on—as a citizen, my household, we pay \$3.38 a day for water and, Madam President, I am told that sometimes in most countries in the world, when you compare—and the Minister of Public Utilities is here, he could attest to that—is probably the lowest in the world or probably close to the top five lowest in the world.

Sen. Le Hunte: Yes, it is.

Sen. A. Singh: So when we speak to how hard life is, I understand life. I come from a rural community just like my friend, Sen. Baig, and I understand what this type of legislation will do. But I also understand, Madam President, from a responsible point of view that this has to be done. It has to be done for an effective Government to really give back to the community—and we call some communities poor, we call some communities vulnerable, but it has to be paid.

So, I am saying that the agricultural sector under the Valuation of Land Act will not suffer under this administration, because we are going to be fair. We are going to ensure that, unlike the current Valuation of Land Act, where some of these lands were categorized under the Lands and Building Taxes or the Municipal Corporation Acts, when that is harmonized now under the Valuation of Land Act, it would be fair and it would be across the board.

I would spend two minutes, Madam President—I did not really want to respond to Sen. Baig, but in one of his remarks he did say in regard to the tribunal, that the tentacles of the politicians are going to be coming into the tribunals. I want to assure Sen. Baig that that is not the case with this administration, and he probably may have been accustomed to the operations of the last administration, because if he simply turns to clause 25G(2), that would direct him and answer his own question, where it says:

“The Minister shall not give directions to the Valuation Tribunal in respect of any particular application or proceeding before the Valuation Tribunal or a direction that would derogate from the duty of the Valuation Tribunal to act judicially.”

Madam President, so when we as Senators come here and speak like that, a lot of persons are looking on. And when we speak like that without reading and

understanding legislation—and I am no Attorney, I am a farmer—and that is my understanding of that clause, but I would not say no more on that.

In this country, persons have the right to go and get legal counsel, they have the right to a number of things. So when you try to ascribe that type of negativity towards tribunals and groups, this is no different to a number of tribunals that His or Her Excellency appoints and, in this case, when you speak to the Minister appointing the members of the tribunal, there are so many pieces of the legislation, where the office of Her Excellency, is called upon to appoint, but really and truly when you look at the legislation it is really the Cabinet. So is it that we are going to look at all the pieces of legislation and make those types of remarks and ascribe those types of behaviour because you are accustomed to that style of governance under your own administration and paint everybody with a brush? Madam President, I think not, but they certainly do it. Madam President, that, certainly, the population has seen through and will continue to see their actions.

Madam President, I did say I was going to be short, and I want to indicate that I would lend my 100 per cent support to the efforts of the Ministry of Finance in getting this country disciplined in terms of our actions, and I want to commend the hon. Minister in the Ministry of Finance for piloting this Bill here today, and making sure that our country becomes more—how should I say it?—responsible in the actions that we take. Madam President, thank you for the opportunity, and may God bless all of us. [*Desk thumping*]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Madam President, and just where my colleague ended, I would like to start, and that is by complimenting the Minister in the Ministry of Finance, the mover of this particular Bill, and all of us would like to thank the members of staff, the administrative staff, who worked on this. You have no idea,

this has been some years in the making, and they have been working extremely hard. And contrary to what is being portrayed on the other side, they have been sensitizing the public on the whole question of land valuation and the property tax. So we are very pleased here to bring forward these two Bills, the Property Tax (Amdt.) Bill and the Valuation of Land (Amdt.) Bill.

The big pity is, of course, that they are not being debated together. Very, very disappointed in the Opposition that they have not agreed, as was done in the Lower House to, in fact, debate both these Bills. [*Crosstalk*] I would sit for a while, please.

Madam President: Sen. Hosein! Sen. Hosein! Okay. Continue Minister. **Sen.**

The Hon. P. Gopee-Scoon: Thank you very much. As I said, I am clearly very disappointed that the two pieces of legislation were not taken together, and I mean, again, this shows the inflexibility of the Opposition and this really amounts to time wasting in terms of the—and I know what they are trying to do, to delay the passage of the Bill and some Members on their side would have had great difficulty in separating the two issues.

Indeed, the speaker before the last spoke very much about the property tax and how onerous it will be and, of course, the Leader of the Opposition Bench, Sen. Wade Mark, also spoke about all the draconian measures, et cetera, and that is not what this Bill is about. This Bill is about land valuations and not about the property tax. So you have created all of this unnecessary work here today and, of course, as you are always, trying to delay the passage of any Bill. You just do not want the Government to move on to complete their Bills and we will do so by sitting regularly—

Sen. S. Hosein: Madam President, Standing Order 46(6) please, imputing improper motives by the Members of the Opposition.

Madam President: Minister, yes. Refine what you are saying please and then move on. Okay?

Sen. The Hon. P. Gopee-Scoon: But we would continue, Madam President—I take your advice—to support the hon. Attorney General in the passage of all the Bills that we have under the legislative agenda, and we will press through to ensure that we complete as many Bills as possible before the end of the this parliamentary session.

As I said, again, a very alarmist approach by the Opposition. I have listened to comments by both the Opposition and the Independent Bench. There were good points raised by the Independents but, as usual, the Opposition was very alarmist in its approach referring to the legislation as “backward”. I am quoting them. And I want to say, well this is what precisely this piece of legislation is about. It is about curing the very backward pieces of legislation, curing the very outdated pieces of legislation, getting rid of all of the confusion, all of the irrelevance and generally the inequitable nature of the existing ancient legislation to make sure that we put forward on the table proper legislation, comprehensive legislation, detailed legislation and that is what we have done today. So there is no negativity in this at all. Again, I would speak to the attributes of the Bill. I think the work that has been done, is extremely good and I would speak later on about the attributes.

So the whole question of—I know what this is about, you know. This is about the property tax and, Madam President, I am not going to go into the debate about that, but I want to tell them, there are 174 countries in the world that have a property tax. There are 18 countries in the world that do not have a property tax. You google it and you could choose where you would want to live, but what we are doing is normal. There is a responsibility of citizens to pay their property tax. This Bill before us, the land valuation is about that. This is about assigning values

to properties so that a property tax could be attached to these properties based on the valuation. That is what it is about, and we could have very easily spoken about both of them but, anyway, this is your way. You have your way, we will still get a way, the legislation will be passed.

As I was saying, there are few countries in the world that have not done what we are doing—18 countries. Trinidad and Tobago is a modern, progressive society under this Government and we will move to modernize our architecture, particularly, our land architecture or land-use policy, our land administration. That is the ethos of this Government and, particularly, with the Parliamentary Secretary and my colleague to my left, Sen. The Hon. Clarence Rambharat in place, that is going to be the approach and, of course, with the AG to pilot the necessary legislation.

So this is not about autocracy and authoritarianism and about corrupting practices and draconian legislation and so on at all. This is a very simple legislation. You brought a version of it sometime in 2013. The hon. AG had made reference to the legislation which was brought by the then Minister of Finance, Larry Howai.

Sen. Mark: We brought no legislation. We brought no legislation.

Sen. The Hon. P. Gopee-Scoon: Well, when you are ready to speak you will speak or ask somebody else to speak after me, and you could clear it up. Okay? But the point about it is—[*Crosstalk*]

Madam President: Minister.

Sen. The Hon. P. Gopee-Scoon: Yes.

Madam President: Please, if there is to be crosstalk it is supposed to be undertones. I am not supposed to be hearing everything, so much so that I am not even hearing what the Minister is saying, and this is the last time that I am going to

get up and make this intervention. Okay? Continue Minister.

Sen. The Hon. P. Gopee-Scoon: Yeah. Thank you very much, Madam President. As I was saying—I lost my trend of thought—the idea behind it is to—and this is just a step in the right direction. It is just the beginning, as I said, to have a really modernized land administration system in place and, of course, I would speak about the Ministry of Trade and Industry with regard to the commercial, industrial and agricultural assessments, land valuations, cetera.

But, to the Bill at hand—and there is not much that could be said about it, but to say that I think that the Bill is well constructed. This is a Bill with clarity compared to—there was I think it was Sen. Hosein who said that this Bill was clouded, but this Bill is not clouded. This Bill is pellucidly clear. There is clarity, there is fairness. It is well-constructed. There is owner protection, property owner protection embedded in the Bill as well, and I will go through and I will speak to some aspects. When I make those claims I am going to justify them by the particular clauses in the Bill. And, as I said, it is not a long Bill, there is no need for me to go into much detail.

And I spoke just now about clarity, and if you go to the definitions of the Bill, the new definition of “owner” it is very, very clear who an owner is:

“...owner or occupier of any land, or the receiver, attorney, agent manager, guardian or committee...”

And it goes on. Clarity on who is an owner. So it really avoids any confusion in terms of the interpretation. It is very, very clear. No ambiguity at all. And then even if you go to the whole question of “Where”, there is an inclusion of a new subsection which addresses “Where”, what property, and it goes on in the Bill to say:

“(a) a building occupies separately from other buildings, a location on a

single parcel of land...”

It speaks to:

“(b) a single dwelling accommodation...”

It speaks to:

“(c) a single commercial accommodation...”

It is very, very clear as to what properties that we are talking about.

What I want to tell you is that previous provisions made no—and I can be corrected, but I do not think that the previous provisions made any kind of accommodation or provisions for apartment complexes and condominiums and so on. So those persons may have gotten away and may have been exempted—I stand to be corrected—but in this Bill there is full clarity as to what is embodied under this piece of legislation, and that is what I like about this Bill.

The whole question of fairness is another matter, and fairness in terms of the appeal system, and the Bill addresses the appeal system, the question of the Valuation Appeal Tribunal and the fact that if it is that the house owner is unhappy about the way his matter has been treated by the Valuation Tribunal, that house owner could, in fact, go on to the High Court and then on to the Court of Appeal and there is further redress right up to the Privy Council. So, again, I say that in addition to clarity, there is fairness in this Bill.

There is fairness in terms of clause 8, and clause 8, Madam President, allows for the commissioner to revalue any land that he deems to be over or undervalued. Again, fairness in favour of the property owner. The commissioner can revalue any land that he deems to be over or undervalued and, of course, such valuation must be sent by post—notice of any such valuation must be sent by post to those residing in Trinidad and Tobago no later than 15 days and those residing abroad no later than 30 days but, again, fairness to the owner.

And, of course, clause 11 speaks to the whole question of a situation where owners may be dissatisfied with a valuation. Again, there is the clarity, there is the fairness. And clause 11, which will amend section 19 of the Valuation of Land Act, lists actually six additional areas of objection for owners or local authorities who are dissatisfied with the valuation and these include, for instance—and I will not detail all of them—

“(e) that the annual rental value of any land appearing in the Valuation Roll is incorrect or unfair...”

Then, of course, there is recourse in terms of:

“(f) that land...not have been included in the Valuation Roll;

(g) that land omitted from the Valuation Roll...

(h) land included in a series or complex of land units as a single land on the Valuation Roll should be listed separately on the Valuation Roll or...”—removed.

Again, there is recourse as well. So, clause 11 seeks to amend section 19 of the Valuation of Land Act here. So wherever the Valuation Roll is incorrect, again, there is redress.

So this Bill speaks to clarity, fairness, flexibility. It puts flexibility in the hands of the property owners where they are objecting, where they are dissatisfied and where they are concerned, there is opportunity for fairness and for redress and so on.

And, again, in terms of owner protection, clause 12 of the Bill inserts a new subsection (3), under section 20 to allow a person to appeal to the tribunal in the case where the commissioner fails to determine the objection 12 months after service of notice of objection. Again, what are we speaking of here? Protection for the public, protection for the owner. Right? And, of course, where the

commissioner fails to treat with an objection, the tribunal can, in fact, immediately start to treat with the matter after a 12-month period.

Again, clause 15—I am taking the pains, Madam President, to speak to the actual clauses so that the Opposition could understand how very well constructed and property owner friendly, I could say, this Bill is—and I know they will not agree with me. But clause 15, for instance, seeks to introduce the whole question of the Valuation Tribunal and, of course, all of the elements that go with the operation of this tribunal.

7.00 p.m.

Again, the functions of the tribunal are not only to hear appeals in respect of valuations, but also to include adjourning proceedings to allow parties to negotiate between themselves to arrive at amicable settlements of objections. Again, this is saving money. The opportunity is there for almost, I can say, alternative dispute resolution, you can discuss. The matter is there, the opportunity is there to arrive at solutions amicably, and again. So that in itself is a cost savings, and the idea behind that, when I say cost savings, because almost 80, 90 per cent of the matters will be in fact dealt with by this Valuation Tribunal, and so quite inexpensive, and, of course, there is the benefit of the minimization of litigation. And, of course, the other attribute that is commendable, but it is expected and it is commendable is the fact that this tribunal is fully, fully, fully independent. Right. So, yes, there was a comment that the process is not fair, well, I want to say to you that the process is pellucidly clear.

As I mentioned earlier about the outdated land administration system and the land use policy, and so on, and inherent in that, Madam President, are serious, serious challenges for investors and commercial owners of properties. And I mention, I make this point here as the Minister of Trade and Industry, and a

Ministry having some responsibility for investments, and this is a step in the right direction.

I can tell you, as it is now it is almost a nightmare for someone wishing to access lands that are not couched and are not housed under eTecK, but if it is under eTecK and eTecK has the head lease, it is fine, you can go ahead, and all of the processes of negotiations, and so on, you could go ahead and actually issue a sublease. Where that is not the case, and, in fact, there are many instances of commercial properties residing on agricultural lands and these are to be converted to commercial properties. There is also a preference in many instances where persons may wish to occupy agricultural lands for commercial properties, but the process is a very, very cumbersome and onerous one, and, of course, the values that are existing, it is almost unheard of.

You are talking about sometimes in cases of values under \$10, and ridiculous values because these things were just never given attention to. And all of these things are deterrents to investors, local and foreign, unless they, of course, as I said, they can find property couched under eTecK, then it becomes difficult and cumbersome, and you have to work through some of the nuances. And I can tell you that there is an investment to facilitate. There is an investment facilitation committee which I chair, and one of the responsibilities under that is that we could work through all of these nuances, all of these faulty systems, all of these deterrents that really will turn anybody off, any potential investor from probably occupying lands that are not housed under eTecK. I can tell you, I go through great pains as Minister as well, and I work very well with the Minister of Agriculture, Land and Fisheries, and we actually sit with the Commissioner of State Lands in many instances and we go through the number of issues that are outstanding with regard to commercial property or agricultural—commercial

properties or potential properties where commercial entities would be housed.

So small step but a step in the right direction, because these are matters that we must give attention to, the whole question of land administration, land use policy, et cetera. I would not go to talk about Tobago but we do know that it is a topic. These are areas that must be addressed and that this Government is addressing. So, as I said, this is about getting the process right. This is about the property tax, implementation of the property tax, and we would have to speak about that on another day, or we may start it today, I am not sure, but the point is this is about getting the process started. They have wanted it separated, we have separated it and here we are talking about the amendment Bill, the Valuation of Land (Amdt.) Bill. The idea is, let us get this going.

There was a point that has been raised by many people about the \$5,000 noncompliance—I think it is \$5,000—about the \$5,000 noncompliance in clause 5 of the Bill which seeks to amend section 6 of the Act, which is to increase the fine from \$500 to \$5,000 for property owners who fail to file the return of land. So many people have said that it is onerous, but it is the Government's opinion that this is not unreasonable, and the idea behind it is that paying your property tax, and, of course, getting this valuation done as a prerequisite is an obligation, and it is 5,000 because it is meant to avoid evasion. The idea behind it, it has to be a deterrent, do not do it. It is a responsibility that we all have.

As I said before, there are 174 countries where there is property tax and there must be some system of valuation of properties embedded into the whole system of paying taxes. So that it is an obligation, and it is not contrary to what was said before, it is not just about revenue earning. As you rightly said, it only contributes to about 1 per cent of revenues. So it is not strictly about revenue earnings. It is a responsibility that is assigned to you as an owner of a property,

and in return for it there is expenditure on infrastructure, roads, drainage, et cetera, et cetera. So that there is return. There is return for the house owner. And, again, you try to show the severity of it by saying, there are old persons, et cetera, et cetera. In many cases it is not one person in that household, it is several persons who live there and who have an income. So it is not just about this single pensioner in every property that has to pay these large sums of moneys. It is not that at all. And, of course, when we get to the property tax there is, in the event that someone is incapacitated in some way or cannot pay the tax, or there is good reason, you know, the property tax amendment allows for that, and we will deal with that then. But as it is now all of the discussion about the \$5,000 in the event that someone fails to submit the return of land, it is to instil, in my view, the importance of this obligation. It is an obligation and I do not think that anyone must try to evade. As I said, the proof is in the pudding, 174 countries do have it.

I have spoken about the land matters for commercial use, Madam President, the delays, the kinds of assurances that we are unable to give to potential investors, and it is why we must get on with the business of land valuation on its own. Get on with the business of land valuation, get on with these amendments so that we can move on to the next piece of legislation, which is to put the property tax in place. Get rid of all of these bureaucracies, that is what we are working towards. In the Ministry of Trade and Industry, the Ministry is working on a number of reforms, working with all of our colleagues on this. This is not the time for me to detail them, but it is about reforms, it is about fixing our institutions, it is about fixing our agencies, it is about getting things right, it is about having clarity, it is ensuring that Trinidad and Tobago is a modernized country that people would want to come here, want to invest here. It is a place to do business. We can in fact—and I know that the statistics do not show well now, the point is there is

commitment on this side to fix and to repair, and to ensure that we leave in place—and we are not going anywhere, as a matter of fact, but to ensure that we are building proper systems so that Trinidad and Tobago becomes an enviable place, people want to come here, live here, et cetera, right. So this, Madam President, is my short contribution to support the land administration Bill, being very careful to bear on the side of what is before me and not what is to come later on. Thank you very much. [*Desk thumping*]

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

Sen. Anita Haynes: Thank you, Madam President, for the opportunity to contribute to an Act to amend the Valuation of Land, Chap. 58:03. Before I get into the substance of my contribution, it is indeed my pleasure tonight to go after the Minister of Trade and Industry and her rather interesting style of debate that we had tonight. The Minister read the clauses of the Bill and then proceeded to repeat to tell us that it is well-constructed and that it is fair by just reading the same document that we had, and so—[*Interruption*] Okay. What we have is a number of arguments, because it is late in the night and we started early this morning, and a number of arguments were made by our Bench, by the Independent Bench. All of those arguments were ignored. So the Minister just looked at the legislation that we all read, and we all raised our concerns from what we read so we know what is in there, what we are saying is we disagree. So I was hoping that the Minister would have put on the record why she felt it was well-constructed, rather than just reading verbatim almost there, because we disagree that it is well-constructed and that it is clear, and that it is fair. [*Desk thumping*] We disagree.

The Minister also repeated that it is about getting the process right and let us get this going, and let us move on, and I am going to get to some of that a little later on, but I just really want to address something that seemed to be of great

bother to the Minister of Trade and Industry, that the Opposition decided that it was not in the best interest of the people of Trinidad and Tobago to debate the Valuation of Land Act and the property tax together. I will explain why, because it is not mischief and it is not us being inflexible, but, rather, as Sen. Baig noted, we have been meeting with the people of Trinidad and Tobago. What we are doing here today is a reflection of the voice of the people of Trinidad and Tobago, [*Desk thumping*] and, as such, what the Minister views as time-wasting is really what we would like to view as a responsible approach to making legislation. [*Desk thumping*] Because what we are doing here, right, this is not something that should be, and I had to address this since the anti-gang debate, but this idea that legislation ought to be passed through quickly, legislation and policy are different things. Legislation is meant to be an enshrined part of your country's administration of justice.

So what you are looking at, what we are doing is something that is meant to stand the test of time, and so it should be meticulous, it should be well-scrutinized, it should take time. It is not something that should be rushed through and just get on to the next one, because that is the essence of irresponsible governance, [*Desk thumping*] and if you did things like that you would find that we would be back here trying to fix it because—and that brings me to something Sen. Singh said, which Sen. Singh went into pains to say that this Bill is very simple. Given the number of contributions we have had today and the number of interventions, even by way of amendments from some of the Independent Senators, it is not that this Bill is very simple. They would like for us to believe that it is simple but it is not the case, because it is wide in scope and it affects every citizen of this country and it affects our future. So when Sen. Singh said that this has not been put to the test yet, I just would like to inform the Senator, through you, Madam President, that we

are talking about people, not guinea pigs.

So that if you do not have a sense of how this will work and how this will impact everyday citizens, then you simply should not do it, because you cannot come here and say, well, let us put it to the test when you are talking about the lives of people in this country. [*Desk thumping*] I do not think that would go down well when you face the population. I do not think that they would appreciate the sentiment that “dey testing out something on yuh”, because they are very uncomfortable by this Bill. [*Interruption*] Yeah, they are, because in our consultations—because we held consultations—people—[*Interruption*] Pardon? You “was” watching it? Yes. So we held consultations, and since 2017, as a matter of fact, we have been holding consultations with people on this Bill, the budget debate, and a number of other things where these issues came up. And, again, interestingly enough, Sen. Singh sought to tell us, to give us comfort on this issue of the tribunal, and in trying to comfort us he directed my colleague, Sen. Baig, to the section which—he said that the valuation tribunal, that the Minister cannot impact on the decision of the valuation tribunal. He said this is the comforting area of this legislation, that it is the check and that is the balance, somehow, however, managing to skim pass that the Minister can suspend the members of the tribunal, right. So section 25B(1) says:

“The Minister may suspend a member of the Valuation Tribunal from office on the ground of misbehaviour or physical or mental incapacity or for cause.”

You see, that negates your check at the end, simply because if you are dependent on this person for your job, this check that we are hoping that the Minister will not impact on the decisions of the valuation tribunal, when there is a symbiotic relationship between their job and the Minister, and who is putting them

in that position, I mean, a promise is a comfort to a fool, and we in Trinidad and Tobago are not fools so we are not comforted by what you are saying. You see, the point that most of the speakers before me sought to make on this issue of the tribunal is that it is something that we have all heard, that justice should not only be done but should manifestly and undoubtedly be seen to be done. So to have an Executive that we have seen over time come here with different pieces of legislation seeking to increase their Executive power do it yet again in another piece of legislation, in a piece of legislation that affects the property rights of the citizens of Trinidad and Tobago, and then that same Executive that is concentrating power in their own hands, is telling us that they included a check in the legislation against themselves, and that we should be comforted by that because they will do the right thing is ludicrous at best, right. [*Desk thumping*]

What I find to be particularly appalling is that in the face of contribution after contribution, after contribution from different Members—now, mind you, I understand that it is their instinct to wish to ignore the Opposition, and I believe that is to their detriment to be honest, but you can go ahead, right. I mean, but you had an Independent Bench come here today and say, time after time, and give reasons why, not simply just read out pieces of the legislation and say, I disagree with this and sit down, but give reasons why this is not something that we should have on our law books, and to have Government speakers get up time and time again and say—and no one actually—you see, all you are saying is that it is in here and that you will be protected, but the issue of mistrust between the people and the Government still obtains. So you have not comforted anybody. You have not convinced us, but the trick is today that you do not need our votes so you will railroad this through this House and you will have your way. But I have said it before and I will say it again, you do have to face the population of Trinidad and

Tobago very, very—you will have to face the population of Trinidad and Tobago. And Sen. Singh said it, that the Minister of Finance—what he said?—bit the political bullet—*[Interruption]*

Hon. Senator: Yeah.

Sen. A. Haynes:—to pass this? I mean, that is interesting, because that means they know. They know that this piece of legislation that they will railroad through this Upper House, not in the same manner they did in the Lower House, because we have had—*[Interruption]*

Madam President: Senator, I do not think that that is something you should be saying, so try again, refine your language, okay.

Sen. A. Haynes: Okay. I would say, this piece of legislation that they do not need our votes to pass that they will have their way and have passed through, will have repercussions, and I think that the Government is aware of it, and that is why when I sat and I listened to all the speakers before me, there was a very interesting bit of narrative because there were words that you heard repeated.

The Minister of Finance was at pains to say that this legislation is reasonable, that it is equitable and that it is responsible. The Attorney General repeated the reasonableness of the legislation in their view, and I believe that the reason they were at pains to repeat those words is because they know that the sentiment within the nation is that this legislation is not for the people of Trinidad and Tobago. *[Desk thumping]* So there was an exercise here of one group of persons, despite varying arguments against, to convince, and could only be to convince themselves that they are doing a good thing. So I had a few words that I thought I would also put on the record: is it fair, is it compassionate? And when you pass legislation like this I guess it is reflective of the Government's priorities, because, again, the Government has said—and, well, the Minister of Trade and

Industry said one thing, the Minister said this is not only about revenue collection, and the Parliamentary Secretary from the Ministry of Agriculture, Land and Fisheries said a different thing, that this is about revenue collection and that you need roads and drains, and that people—you have to get money and it will go back into the communities. And that disjointedness is something that they would have to work out amongst themselves, but the point is that the sentiment on the ground is that this PNM Government has no clue how to earn money, how to earn revenue, so what they do is ride on the backs of the citizens with taxation and Bills like this.

So the citizens have said that the Government does not have the ideas to produce and to earn, so you are taking the benefit of my production and what I have earned, and the property I have bought, and the value that I have added to society, and you are going to use that and say, look at what you have created by way of revenue collection, and that is wrong. The people of Trinidad and Tobago also do not trust the Government to spend their money wisely. So that when you say—*[Interruption]* Yes, we will. Yes, we will, I agree with you. When you say to us that we are bringing this and it will help your communities, you have had two and a half years to help the communities if you were going to, and you have not yet, we do not believe that you will.

I said before, the scope of this Bill is wide and that it will affect all of us and it will affect our future. Sen. Creese raised an important point that formed a significant part of my thinking about this piece of legislation, and some of the pieces of legislation—the work of the Government in total. Sen. Creese said that it was troubling that this legislation did not seem to have an overarching philosophy. Now, again, interestingly enough, as an Independent Senator in the Bench in the Upper House there is a space to create balance, and we are in a two-party system, but the United National Congress has been saying that this PNM administration is

an administration without a plan. Now what Sen. Creese said is a reflection of what we have been saying from the onset, because you, and the population is aware that these, as Sen. Mark called it, movement backwards, these backward pieces of legislation, are without an overarching plan for the development of our country. And you can see it in the way that it is crafted and the way that is it brought to the various Houses that they really do not know where they are taking us. They are just carrying us for a ride and, I mean, we will see in 2020, or before.

Some of the concerns I had about the legislation, as the Minister of Trade and Industry noted that there is this impetus to move forward quickly, and one of my major concerns, because, as I said before, this Bill will be passed without the help of the Opposition, or against the grain of a lot of opposition from our Bench, the Ministry of Finance's Valuation Division, once you pass this, are they ready to implement the legislation? Because, you see, again, we have seen pieces of legislation come here in a rush, let us get this done, this will save the country, this is what we need, this is the absolute saviour, and it all stops at implementation. After you have passed it what you do you do, and we have seen time and time again that the answer is nothing. So it is appearing to be that the Parliament is being used as part of a PR mechanism that we will pass legislation and check it off as an achievement when there is no implementation. So it is inaccurate to say that you have achieved anything if you pass the law and you have implemented it.

So when you look at the Valuation Division and the role of the Commissioner of Valuations, which is quite extensive, and if you look at the parent law the Commissioner of Valuations is responsible for making sure that each parcel of land, every parcel of land in Trinidad and Tobago, including buildings, plant and machinery for all purposes required by the Government, subject to presidential exemption from such valuations, that they have to be prepared to do

this bulk of work. And we have additional work coming their way and no indication from the Government if the Valuation Division is adequately capable to treat with the massive workload that will ensue once this Bill is passed and proclaimed. You see, Madam President, despite our vociferous opposition, because they do not need our votes they will pass the legislation, but no one has gotten up to tell us what the implementation process would look like, the timelines for delivery, none of these things came forth in this debate.

So on one hand they did not seek to tell us why the legislation is good for the people of Trinidad and Tobago, and then on the other hand they did not tell us how it was going to be implemented and rolled out. The Minister of Trade and Industry told us that despite what we are saying that there was a public relations and public education campaign. Now, you can say that, but if you cannot show the benefit—if you have citizens, if you have Senators still asking a series of questions about the legislation then it means your campaign, quite simply, did not work, and so you have to go back to the drawing board. It is your responsibility as a Government, if you are going to pass legislation, to make sure that the public is adequately aware of their responsibility under the legislation, and as well as that the Government is ready to fulfil their role under the legislation. And it is my respectful view that they are not ready.

I would like to refer to a newspaper article from the *Guardian* newspaper on Friday 25th August, where the title—Friday 26th August, 2017—property tax evaluators receive certificate, and in this they are talking about the 187 assessors that have been trained in a six-week period. You had in that article the Ministry of Finance, Permanent Secretary, Michelle Durham-Kissoon saying that tax administration in this country needed to become more efficient, and that 187 persons graduated as valuation assessors training programme, and the six-week

programme originally started with 207 participants. So if you look at Schedule II of the Act you will see the forms that the valuation assessors would have to go out with, and it is a lot of private information. You have to hope that once you are doing this that the persons that they have trained in six weeks will get this right. And that is not casting any aspersions on anyone within any training programme, but it is saying that if you are going to do something you should at least be at pains to do it right and not just do it quickly, because it seems politically expedient for you to get it done now.

7.30 p.m.

You have to be able to tell the population of Trinidad and Tobago that the persons you are sending out to collect their data and their information are persons that you have properly trained, properly vetted, and we have to be able to trust that this is true, and if we cannot do that, then this whole system will fall apart. Again, it is not sufficient for you to just say it, but bring evidence to support the fact that this was done in a proper manner and that the persons that are coming to collect my information, that you as the Government will stand behind that person and their qualifications and their training.

Who will be ultimately held accountable? Are we just hoping that people would be fair and honest and transparent in carrying out their duties? I have seen time and time again when things fall apart under this Government, there has been an attempt to always pass the buck, to blame someone else. So is it that if my data, if my information gets in the hand of different people or is not used for the intended purpose, will you simply just blame someone else or will you take responsibility as a Government to say that these people have been trained and properly vetted, and therefore you standby them? This is serious business, and people are concerned about who is coming into their homes. We also live in a high

crime society, and so you have to be aware of these things, before you just simply say, okay there was a six-week training programme and here are the people, and give them your information, because that is the right thing to do and that is your role as a citizen.

In my preparation for today's debate I looked at the *Hansard* from 2009, and the late Dana Seetahal SC, may she rest in peace, had stated that:

“The entire concern of the country, I think, is focused—well,...a substantial concern is—how is this to be determined. That, again, is illustrative of the lack of trust. People say, ‘Well, I am not renting my property.’”

I am quoting here from the *Hansard*:

“Of course we know that that is not the point, but you are looking at the value that can be had for the property were it to be rented.”

Now the point being, who has to say and how is it to be determined what is the annual rent of the particular land, not forgetting that the land includes buildings etc.

So as way back as 2009 the question of the mistrust between the Government as an implementing agency and the people of Trinidad and Tobago, surrounding these taxes, were articulated. When you bring back the legislation nine years later in 2018, no attempt was made to correct these shortcomings. So again we are saying, if you had intended to do this, and we knew you intended to do it because it was in your manifesto and you never denied that you were bringing it back, at least take the time in between to try to fix the shortcomings and do it right.

A number of my colleagues raised the issue of public consultation. I am not going to go into any great detail, but I will say that there have been many questions surrounding the transparency and the fairness of the process, and the universal cry

of the people of Trinidad and Tobago is how much more can we really take. We are hoping that—well, I am hoping that the Government will for the first time exercise some humility and listen to the voices of the citizens, and do not simply say there is enough information. If the people are telling you that there is not sufficient information around the valuation of land process, then it is my respectful view that you should listen to that and try to correct it, because it is not a difficult fix.

I would also like to point out that if you may recall when the furore around the submission of forms occurred last year, the commission was not able or equipped to deal with—well according to the information they provided the public with, that they were not equipped to deal with the people who were scared or forced to submit their valuation forms. So what we saw were hundreds of people standing in line—sorry, I remember in front of Palms Club last year there were just people standing in front of Palms Club with no information, with their forms in hand, just kind of hoping that somebody would give them some kind of guidance. So what we are saying is once this is passed, are we going to see a recurrence of this, or is the system designed to execute and exercise this process more efficiently?

I think Sen. Richards raised it, again this idea of the social contract. So it is not just how you will spend our money, but if you are putting this in place, is it going to be done in a fashion that the citizens feel accommodated by the institution as part of the process, or are we going to be fighting—*[Interruption]*

Madam President: Sen. Haynes, you are now starting to repeat what you have been presenting earlier. So I will ask you to tie in what you have to say and move on to some new points.

Sen. A. Haynes: Yes, okay. So I would just like to wrap that up quickly if

possible, really quickly. So the idea is that there should have been—we are hoping that there is rigorous planning around this. And when you talk about spreading the burden of adjustment, we have questions. Is the Government adequately prepared to bear their burden under this legislation, and are you ready to facilitate the population of Trinidad and Tobago?

The other points I had I think were very clearly articulated by earlier Members, which included the onerous \$5,000 increase. I would just like to add my voice to the voices that went before, that the increase seems to be excessive and we do not agree with it. And again, on the issue of the tribunal, I would also like to add my voice to that disagreement. Taking all of these things into consideration, Trinidad and Tobago is looking on at what we do here and what the Government is going to do. If we vote on this tonight, your vote will be recorded and that information will be transmitted to the citizens of Trinidad and Tobago, that you have said that you have heard their concerns and you have chosen to ignore the concerns of the people of Trinidad and Tobago, and that you will face that repercussions for that. So I thank you.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President, for the opportunity to join this very important debate. Let me right off address the heart of the contribution of Sen. Haynes. I listened to Sen. Haynes and Sen. Baig talk about the consultations they are currently conducting across the country.

Sen. Haynes: Since 2017.

Sen. The Hon. C. Rambharat: Since 2017, you are right, across the country, and I commend you for that. [*Laughter*] But I want to position my contribution on this issue of land, because we cannot have property tax and valuation if we do not have land. At the heart of what needs to be reformed in this country—whether we look

at it from a housing or institutional or commercial basis—at the heart of what has to be addressed in this country is this issue of land, particularly the ownership of land by the State and state agencies, and the administration of that land.

I want to open, Madam President, by referring to the issue of consultation, and Sen. Haynes' point about we do not need to rush the legislation. We need to take our time with the legislation. It is consistent with what I have heard for the last two and a half years. The United National Congress in Opposition at every opportunity calls for consultation, joint select committees, affirmative resolutions and a variety of checks and balances and so on, in Opposition. And perhaps, as Sen. Haynes now gives this Government advice, that is the reason why the UNC established what I considered to be a remarkable record in their five years and two months. [*Interruption*]

Madam President: Minister, let us deal with the Procedural Motion.

Sen. The Hon. C. Rambharat: And then I will continue.

PROCEDURAL MOTION

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

VALUATION OF LAND (AMDT.) BILL, 2018

Sen. The Hon. C. Rambharat: Thank you, Madam President.

Let me refer to the United National Congress track record on this issue of land and this legislation that Sen. Haynes says we should take very slowly. Well, this is beyond slow; 2010, May 24th they came into government; 2010, the calendar year, nine pieces of legislation were passed. Not one dealt with the issue of land. The closest you came to in 2010, your first year, was an amendment to the Land

Tenants (Security of Tenure) Act, where you deleted two words and substituted those two words for two.

In 2011, you passed 20 pieces of legislation; none dealt with land. In 2012, you passed 17 pieces of legislation; none dealt with land. The closest you came in 2012 was an Act to incorporate the Association of Real Estate Agents, Act No.10 of 2012. That is the closest you came. In 2013, you passed 14 pieces of legislation; none relating to land. State land, administration of state land, land management, land valuation, property valuation, zero. In 2014, 16 pieces of legislation; well, in that year you passed a piece of legislation called the Planning and Facilitation of Development Act which made some changes to the town and country planning regime. That was only partially proclaimed. If you want to take half a point for that, go right ahead. And in your final year, nine pieces of legislation passed by you, not one dealing with land.

So it seems as though, as the Minister responsible for hunting, Madam President, the United National Movement in Government was like a manico facing the headlights, they freeze, [*Laughter*] and once returned to Opposition they have the advice for everybody. We do not need that advice.

In our first two months in government, on November 13, 2015, we brought before the Parliament an Act to amend the procurement legislation, and in that Act we reversed the problem that the Minister of Planning and Sustainable Development under the UNC faced, and that is the famous, or infamous, Invaders Bay matter. In that piece of legislation we brought on November 2015, was an amendment that says, "In the disposal of property by the State, dealings with state lands must be included", and that was the first step. The first step was to recognize, once and for all, we needed a legislative regime to address the dealings by State and state officials in state lands. When we talk about disposal of state

lands, we had a very broad definition that included leasing, renting or anything—anything—that meant that the State gave an interest, beneficial, legal or otherwise, in state land to someone else.

In 2016/2017, we brought four Bills dealing with land, straight on land, including the amendment to the State Immunity Act, including the amendment to the Land Tribunal. In 2017/2018, we brought six Bills. So in two and a half years we have already brought 11 pieces of legislation dealing with land. [*Desk thumping*] Because you cannot talk about valuation and property tax, if you are not talking about a fundamental change in the management of land in Trinidad and Tobago, and that is fundamental. [*Desk thumping*]

Madam President, I think you were out for most of Sen. Mark's contribution, I am not sure. I just want to address some of the speakers who went before me, and I want to refer to this paragraph. It is from the *Hansard* record of the Senate on Tuesday 29 December, 2009. I quote:

“We call on this Government to either withdraw this measure, send it to a select committee of the Senate where we would have large scale and proper consultation, but do not try to foist this Bill in its current form down the throats of us in this Parliament today. We are speaking on behalf of the hundreds of thousands of people who cannot speak for themselves and we are here today representing them, and we are saying this Bill is oppressive, this Bill must be withdrawn and if you do not withdraw it you pay the price.” [*Laughter*]

I am quoting Sen. Mark—

Sen. Mark: Very consistent. [*Laughter*]

Sen. The Hon. C. Rambharat:—on the Valuation of Land (Amdt.) Bill. These threats we have heard today are not new to us.

Sen. Mark: They are not threats, they are warnings.

Sen. The Hon. C. Rambharat: Unlike the UNC, which sat in government for five years and three months, and passed 85 pieces of legislation, none of which addressed the matter of land. You could cry mayhem in the streets and what and what and what, we intend to bring this to this Parliament, and place before you the legislation that will fundamentally transform the way in which we manage lands and the way in which we deal with the matters of valuation and property tax. [*Desk thumping*]

But, Madam President, I listened to my friend, Sen. Mark, the man who a few weeks ago threatened to lay down his life for my freedom of expression, and I want to address two specific issues he raised in relation to this Bill, and this is this matter of the Tax Appeal Board versus the tribunal. Needless to say, he has reversed himself, because in 2009, he was saying, “Dey going to delete de Appeal Board, dey going to delete the Tax Appeal Board”.

Sen. Mark: You are talking like me, man. [*Laughter*]

Sen. The Hon. C. Rambharat: Yes. Sen. Mark was saying that they want to delete the Appeal Board and put the Tax Appeal Board. Here it is we had at that time 600,000 properties to be valued, and there were only three judges in the Tax Appeal Board. When the board was established it was never anticipated that you would have this avalanche of complaints. So he set aside the proposal to move to the Tax Appeal Board contained in that Bill, and said, “We need an independent land tribunal”. I am prepared for us to argue the issue of independence, but what I am clear about is that Sen. Mark in 2009 was prepared for a land tribunal, instead of the Tax Appeal Board.

Sen. Mark: Independent.

Sen. The Hon. C. Rambharat: And Sen. Mark in 2018 is prepared for the Tax

Appeal Board and no form of tribunal. [*Desk thumping*]

Sen. Gopee-Scoon: You are confused.

Sen. Mark: No, I am very clear. You are confused.

Sen. Gopee-Scoon: Not at all.

Madam President: The person who is most confused right now [*Laughter*]—because I think I have been saying this ad nauseam about the crosstalk.

Sen. Mark: Sorry, sorry, sorry.

Madam President: Okay. Continue Minister.

Sen. The Hon. C. Rambharat: Madam President, I take very seriously anybody who would lay down their life for me, and it is a sense of duty I feel to assist my friend in remembering. Because when I first saw this Bill and I heard my colleague, MP Deyalsingh debate in the other place, one of the first things that drew me to this Bill was this issue of the inclusion of condominiums, apartments and townhouses and so on in the Bill. This is my 25th year of involvement in land in this country, and I was around when people were first addressing in this country the issue of wanting to dispose of an apartment that was contained within a dwelling. And because we do not have strata legislation and townhouse legislation and so on in this country, they found difficulties in doing it, and over time we have evolved, and we see the proliferation.

MP Deyalsingh talked about Aranguez which is an area in which we have seen agricultural land being built upon, and townhouses and apartments being developed. Again, I found it was a very important part of the legislation that we were able to ascribe to each apartment owner and each townhouse owner, and each condominium owner within a residential complex, a property tax, which in the normal form of a property tax represents the contribution you make towards the physical infrastructure and the services that support this asset that you have.

Then today I listened to my friend, Sen. Mark, questioning the Government's intention with the inclusion of condominiums and so on, and I went back to his contribution on Tuesday, December 29th, 2009. This is Sen. Mark:

“Mr. President, I want to ask the Minister in the Ministry of Finance, given this definition for residential land, how will you the define apartments? How would the Minister describe and define One Woodbrook Place? How are you going to tax those people given the definition for residential land when it says a single dwelling accommodation that you are permanently occupying? That is what they mean by residential land. What about those areas where you do not have a single dwelling unit? What about apartments? What about condominiums? What about One Woodbrook Place? What about townhouses? In your rush to bring the legislation, you may have overlooked this particular definition or these categories. We have to revisit this definition.”

That is what this Bill is all about. [*Desk thumping*] If Sen. Mark must support one amendment in this Bill, it will be the legislation in clause 3 of the Bill, where we seek to amend section 2 by inserting subsections which include single dwelling accommodation and all of those things, which include elsewhere in the Bill his wish for condominiums, apartments, townhouses, to deal with his friends in 1A Woodbrook Place.

Sen. Haynes has said that the Government does not listen. [*Desk thumping and laughter*] It may have taken us nine years to hear you, but we are here tonight in furtherance of your wishes to have property tax attached to apartments, condominiums and townhouses.

Sen. Mark: After my contribution, elections were called.

Sen. The Hon. C. Rambharat: Exactly. So Madam President, in looking at Sen.

Mark's contribution, the similarities from 2009 are clear. In fact, I will close on dealing with Sen. Mark's contribution by saying, even his joke about the Government wanting to tax people on boats made today, was made in 2009.

Sen. Mark: I am consistent.

Sen. The Hon. C. Rambharat: Let me address some points raised by Sen. Baig. I really was at a loss, and I tried my best to focus, but I could not understand. Sen. Baig referred to Schedule II, where in putting the information forward for the purpose of having your valuation assessed, you are required to say what is the registered deed or certificate of title registration number, because that is the way this works. As I said at the start, you cannot have property tax and you cannot have valuation without a property. Whether it is an apartment which has an address in a building that is built on land, because we are not going to have many boats with people to tax, built on a parcel of land, and it is the fact of the land that triggers the valuation and the property tax. So that I could not understand, because my friend spoke about his various areas of expertise, and maybe he has not been involved in conveyancing, but the deeds and certificates of title are a matter of public record.

If we wanted to know anything about a parcel of land, you can go to the District Revenue Office where the rolls are kept and you can check the records, or you can go on your own or through a search clerk at the Registrar General's Office and you can get the information. Anybody could get a certified copy of a deed, could get a certified copy in the case of RPO land of a memorandum of transfer, and any search clerk could extract title information from a certificate of title. So it does not create any risk or bring upon anybody, because one can snatch a certificate of title, surely you could do that, but one cannot lift a parcel of land from Guayaguayare Road in Rio Claro and cart it off in the night, depriving

somebody of the property.

Part of the administration of land and what we seek to do in dealing with both land valuation and property, is to minimize the risk of people interfering with people's legal rights by occupying, by squatting, by interfering with title and committing fraud with land all those things. I do not see the problem in that.

8.00 p.m.

And, Madam President, I was even more astonished by his criticism of the definition of "owner", because, Madam President; there is a reason why the dictionary meaning is not used in this legislation; there is a reason. Because in the definitions section you include terms for which you are varying the natural, the legal or the meaning to which people have gotten accustomed.

And, Madam President, this is not a new, a totally new definition. This is along the lines of the definition in the 2009 amendment. It is, of course, an expansion of the definition of "owner" which was in the original Valuation of Land Act, it is an expansion of that. And the only reason it has been expanded, and the only reason it is here is because it takes into consideration—this definition takes into consideration at least eight forms of ownership rights that may be exercised.

So it talks about the owner, and that would be your dictionary or the meaning which is normally described to owner. It talks about a receiver, recognizing that during a receivership the ownership of the assets rests—by virtue of the court's decision to appoint a receiver—rests in the hands of the receiver. So the receiver who is required to either run the affairs of the asset, or dispose of it at fair market value, has to do that by functioning as an owner.

The third one is attorney, and "attorney" there refers to somebody who holds a power of attorney, and it is not unusual in our society for people to hold the power of attorney which places them in the shoes of the owner in order to exercise

the powers and functions recorded in the document which gives them the power.

The fourth is an agent, recognizing the agency relationship between entities, individual or corporate entities, a manager, a guardian, recognizing again we may have circumstances where somebody is acting on behalf of a minor, where a minor has been granted an interest, legal or has an equitable interest in real estate or other property, and acts through a guardian, because the law requires a minor to act through a guardian, or committee. And a committee there is under the Mental Health Act where somebody has been determined to be incapable of functioning on their own, lacking capacity to sign documents and enter into contracts, and that is why we have that seventh area in which we define ownership.

And then lastly, someone having possession of something which allows them to exercise the right of an owner. So there is nothing underhand or anything. It is simply taking a definition which exists mainly in that form from the 2009 legislation which itself was an improvement on the previous legislation and inserting it into this Bill.

There was another reference in the schedule, again, quite surprising that Sen. Baig would question the requirement that if you have a residential building under rental that you provide the name of the tenant on the lessee the current month, rent and so on, and provide the details. Because, Madam President, when you are determining annual rental value, this will assist the Commissioner of Valuations and the Commissioner's staff in determining the annual rental value.

And it is information that has to be provided if you want to comply, and that is what we need in this country. We need compliance with the legislation so that we could—it is not a matter of generating revenue alone—that we could have certainty, that we could deal with fraud, that we could pass title from person to person, and we will operate, because we have a way, Madam President, in this

country, I have said it in different places, that we talk about, I receive a lot about of YouTube videos about agriculture in Holland, and how to do this in this country and that country and all of that. And I have always said to people, we want First World things in this country, but we do not want to adopt the discipline and the requirements of a First World society.

And if you were in North America, for example, if you were in Canada, for example, and you receive your property tax receipt when you pay your property tax, you would see a breakdown which tells you what your property tax is going to, your \$50 towards the fact that there is a school in close proximity, down to the fact that there is a fire hydrant within 100 metres of your home, and it reflects that.

And in our country we could get there, to that level of detail, but before we get there, we have to deal with the management and the administration of land, we have to deal with the valuation of that land, and we have to deal with the scale that we will use to tax those various categories of land.

And that is why we are here, and this Bill has not fallen out of the sky. November 2015, we brought the disposal part of dealing with state lands; 2016/17, we brought four Bills relating to land; and 2017/18, we have six Bills in the Parliament dealing with land. And the Government is moving in a particular direction, and we wish to have your support in doing so.

Madam President, I also listened very carefully to Sen. Hosein; and taking the cue from Sen. Mark, of course, Sen. Hosein raised the matters of—and let me just get my notes—raised the matters of the unfettered powers of the Minister. Well, in this Bill, Madam President, you will see that once the Minister makes the appointment, the Bill sets out what happens thereafter, the circumstances in which the person could be removed, the other elements of the Bill, and it says that the tribunal functions on its own.

And you know, my colleague Sen. Khan always talks about this issue we have with giving the Executive and giving Ministers power, but we only have that issue when we are in Opposition. And if you had passed any Bills relating to land in 2010 to 2015, somewhere along the line you would have figured out that in administration of matters in this country, Ministers have to be given some powers.

In fact, the Constitution is very clear, and the President issued an instrument giving a Minister the power to exercise general control and direction over a Ministry, and also allows a Permanent Secretary to exercise those powers which have been given to the Permanent Secretary, most importantly, the power of an accounting officer recognizing that a Minister should not be involved in the financial affairs of the Ministry.

So that this fear we had of dealing with Executive and dealing with the Minister, I mean, we could extrapolate the argument. You yourself recognize that where the legislation generally—unless the legislation gives His Excellency the President or Her Excellency the President a power to do something in their own discretion—the word “President” represents the Cabinet; the Cabinet is made up of politicians. You do not get to the Cabinet generally unless you are a politician.

So this fear that we have of giving power to the Minister, now I am not saying that concerns about exercising influence and so on do not arise in the exercise of ministerial power, but that is the nature. And that is why to balance that we have a Constitution that has enshrined fundamental rights in section 4 and 5, and we have a piece of legislation that I have spoken about many times in this House called the Judicial Review Act which I said was really landmark legislation in this country to hold decision makers accountable, reflecting on a society where a decision maker had no duty to give reasons. So, we have evolved.

And the exercise, the grant of a power to a Minister is balanced by the

several requirements elsewhere in the law that require a Minister or a politician to act or any decision maker to act in a particular manner.

And I listened to Sen. Hosein refer to one particular tribunal or one particular instance in which he was saying that, you know, you cannot compare a decision of a valuation of property to the registration of an architect. And a word comes to mind, Madam President, flummoxed. I hope I used it correctly, flummoxed. I was flummoxed because, Madam President, I really do not like to say too much about what went before, but the laws relating to the opportunity for professionals to practise is something I hold close to my heart. In fact, I hold it at a higher level than any property valuation. And I will tell you why.

I had the opportunity, Madam President, to be admitted and to practise in Canada, and there was a time in Canada, until the 1980s in fact, you had to be a citizen of that country to be admitted to practise in Canada. And it is one Andrews, an immigrant coming to Canada or going to Canada and seeking admission to the Bar, after meeting all the requirements and upon being denied because he did not have citizenship, who raised the matter in the court. And ultimately, the Supreme Court of Canada held that he was entitled to be admitted to practise. And were it not for Andrews, I would not have been, because contrary to what people have said elsewhere, I am not a citizen of any country other than Trinidad and Tobago and I have never held citizenship anywhere else, and I would not have been able to practise.

And that is why wherever we have a piece of legislation or a regulation or a process or procedure that deals with the practice, the right to practise and the opportunity to practise something for which you have been trained, I hold that very sacrosanct, and I think the UNC should also do that. Because one of my predecessors, Dr. Jones-Kernahan, made it to the position of Minister in the

Ministry of Food Production and Marine Resources in this country with responsibilities not only for the welfare of animals, but responsibility for the practise of veterinary medicine in this country, and Dr. Jennifer Jones-Kernahan could not be registered as a vet in Trinidad and Tobago because she studied in Cuba. So, I took note of that point that it is not—

Madam President: Minister, you have five more minutes.

Sen. The Hon. C. Rambharat:—it is not simply a subjective look at comparing rights and so on. What the Attorney General is saying and what we are saying in this legislation, when you look at 600,000 parcels of land and the different ways in which, and I will very quickly tell you, I made a submission—in our two and a half years in Government, there have been four reports already on the matter of land and land tenure in this country; four reports. Two out of the Joint Select Committee on Land and Physical Infrastructure. I do not know how many know of you are on that. One, strangely enough by the committee on foreign affairs, and one from the committee on statutory bodies. Four reports tendered, and I had the opportunity to respond to all.

And in one of the responses I took the opportunity to share with the committee, and I will share very quickly with you, that this matter of land and land tenure which ultimately affects valuation is not a simple matter, because I told the committee, just dealing with the areas for which I am responsible, and that is state lands, I categorized, I listed all the different categories of land, and I said in relation to agriculture, there is your traditional state land and there are about 20,000 leases for state land, many of which have expired. There are state land acreages that are occupied, but for which the people have no tenure.

There are former Caroni employees who received two-acre parcels under the VSEP, there are 8,885 of them. There are former Caroni tenanted lands which

were in the hands of people like cane farmers and so on, and there are also former Caroni lands which are occupied, but for which the people have no tenure. In residential, there are state tenancies across the country. There is state land which people occupy for residential purposes. There is the Caroni VSEP. The list goes on and on.

In commercial, you have the Caroni, you have the State. In institutional, and I have not even touched on PSAEL, Palo Seco Agricultural Enterprises, HDC, Land Settlement Agency and your certificate of comfort and all the state enterprises, be it WASA, T&TEC, who own property, who hold property, some of them residential in all forms and fashion which require administration in a way that we could separate into the different categories, deal with the issue of tenure, get a process by which we can ascribe a value to those properties, get a scale on which we could determine what tax will be charged, and ultimately, have a modern system of land management and land administration which generates revenue, brings certainty to both the owners and the landlords, and also creates a much-needed revenue stream to support the infrastructure and other development in this country.

And I felt obligated, Madam President, at this stage, at this late stage in the debate to make this contribution by virtue of a position I hold that gives me a particular advantage, and that is the Minister responsible for land in the country. And I will tell you, it is not an easy task to bring these state lands under proper management and administration so that we could have certainty and we could protect the assets of this country. I thank you very much. [*Desk Thumping*]

Sen. Khadijah Ameen: Thank you very much, Madam President. I waited patiently to hear the contribution of the hon. Minister of Agriculture, Land and Fisheries hoping for some part of his contribution to this Bill, an Act to amend the

Valuation of Land Act, with regard to land tenure. And we did get a very brief mention but, Madam President, as we begin the discussion of the valuation of land we cannot forget the discussion of security of land tenure, something that this PNM Government has failed to do in its time in office.

Madam President, most of the mention that he made of any sort of land tenure regularization and security under the Land Settlement Agency, the HDC, Caroni lands, were done by the People's Partnership Government. [*Desk thumping*]

But, Madam President, in December of 2009, the PNM attempted to enforce several contentious policies and oppressive measures relating to land including property tax and valuation of lands. These measures were contentious; there were people marching, people protesting the length and breadth of Trinidad and Tobago; people lost confidence in the Government; people lost trust and the Government lost the support on this and other matters.

This assessment, this valuation of land affects property rights, it influences an owner's use of the land, an owner's ability to earn income from the land or to influence the income itself, and how property rights could be shared or transferred. It interferes with the security zone and the comfort of citizens with regard to ownership of property.

And just as it did then, it is now eliciting a reaction from persons all across Trinidad and Tobago, people of every social bracket, every economic bracket, every racial, religious and geographic bracket. And just as in 2009, the population felt that the Valuation of Land Bill was rushed, that there was not enough consultation and input, not only from citizens, but stakeholders, that these measures were being forced on citizens.

Here we are, after months of the PNM being in Government and having this

intention, trying to bring this—well, bringing this legislation to Parliament once again without any form of consultation.

Madam President, the history is on record in 2010—mainly because of this attempt to do land valuation and bring property tax, the PNM suffered an agonizing defeat at the polls, and history was created when Kamla Persad-Bissessar became the first female Prime Minister, winning overwhelmingly that general election in 2010 [*Desk thumping*] and, Madam President, I sense an element of *déjà vu*. Here we are in 2018, two and a half years later, [*Crosstalk*] two and a half years into this term of this Government led by Dr. Keith Rowley with an attempt to reintroduce a system that they lost government on. Have they not learnt any lesson?

Madam President, the point made about public consultation has been made by a number of speakers in this debate, and so I just want to add my voice without going further, lest I be chastised for repetition. But this amendment of the Valuation of Land Act is one that any Government which has the interest of democracy and citizens at heart must do engagement and would hasten to have not only public consultations, but initiatives to educate the public on its intention, even if it has no intention of listening to what the people say.

And you know, Madam President, earlier today while my colleague Sen. Hosein was correcting the record after the contribution of the Attorney General, the Attorney General left hastily, but I am happy that he had the opportunity to contribute, unlike other Members of the Lower House who were elected to represent a constituency, and unfortunately, that debate came to a premature end.

But today, a ruling was made just around the time the Attorney General left. A ruling was made in the court concerning a matter that the Government brought against former directors of the HDC, and it involved land valuation. And the claim

alleges that an evaluator attached to the Commission of Valuations accepted a bribe to value a 50-acre property at \$180 million, ignoring valuations provided by independent valuers Linden Scott who valued the property at \$52 million. And the Minister, Minister Young indicated that the employee who was an officer of the Commission of Valuations allegedly received a bribe to value the land at a higher figure compared to that of the independent valuator.

And the decision of the court, Madam President, in my humble view, reflects an incompetence on behalf of the Attorney General and the Government in bringing this matter, and having the court make that decision, to me, it strikes a hard blow against the Government. [*Desk thumping*]

Madam President, the UNC has always indicated that we will support and we are in support of a good, fair tax and a good, fair land evaluation system, a transparent framework. Earlier, the Attorney General quoted the former Minister of Finance, and his quote with regard to recurrent land and building tax that—if I may just read the few lines:

“...a land and building tax regime is a key pillar in all modern tax systems. Recurrent land and building taxes meet all the conditions of a good and fair tax.”

The current system of valuation brought by this Government is neither good nor fair and so we cannot support it. I continue the quote:

“The backbone of a successful land and building tax is the proper valuation of properties within a transparent framework.”

The framework presented and particularly the method of appointment and disposal of staff of the people responsible for hearing objections does not lend to transparency, and so we cannot support it. The then Minister at that time continued:

“This will require the property rolls being brought up-to-date. I propose to phase in these taxes over the period 2014 to 2017...and consultations will be held with all stakeholders.”

We have seen no consultation from this Government with regard to this measure.

[*Desk thumping*]

Madam President, at the time the hon. Minister indicated that it will be done on a phased basis. This Government proposes to come—in fact, they started to collect valuation forms even before the legislation came to Parliament—

Sen. Hosein: How much of them filled out the forms? How much of them filled out the forms?

Sen. K. Ameen:—and they had to be taken to court—

Hon. Senator: I did.

Sen. Hosein: How much of you all submitted—

Sen. K. Ameen:—and then they indicated to—

Madam President: Sen. Ameen, take your seat please. Sen. Hosein, I will ask you to leave the Chamber for 10 minutes and you will return in 10 minutes' time. Sen. Ameen, continue please.

Sen. K. Ameen: Madam President, the Government started to do this assessment exercise even before the legislation came to Parliament. When it was taken to court and they lost in court, they then advised citizens that they can voluntarily submit valuations.

The approach of the People's Partnership Government at the time was to do in phase one, commence valuations of all industrial land including plant and machinery. Then in phase two, to go to commercial properties. And in phase three, go to residential and agricultural properties, so that you would not have the situation as you have now, a sudden rush of taxation on top of all the other taxes

that this Government has already brought.

Madam President, the Attorney General also failed to quote the then Minister of Finance when he said, and it was reported in the *Guardian* of Friday, August 28, 2015:

“Government has no intention of implementing the Property Tax and will seek to”—amend—“the amnesty if it is returned to power next month.”

So there are methods within our Standing Orders to treat with Members who say things that are misleading, but I trust that the Attorney General will have an opportunity to correct the record if that was not his intention.

Madam President, the Commissioner of Valuations himself has indicated that he has distanced himself from the attempts by this Government to enforce this exercise on its citizens. In the *Newsday* of June 29, 2017:

“Valuation Commissioner steers clear

Commission of Valuations Baldeo Ramoutar has distanced himself from media releases and the website of the Ministry of Finance which provided information to property owners on requirements for the Property Tax data collection exercise.”

So, I want to ask this Government: “Whe yuh going with dis?” What is your intention when the Bill is passed in terms of implementing?

Madam President, I want to just go briefly into a few clauses to add my few cents to what would have been said already.

Clause 4 of the Bill will amend section 5 of the parent Act to clarify that the Commissioner of Valuations shall make a valuation of:

- “(a) site value and improved values;
- (b) annual rental value; and
- (c) where necessary, the capital value,...

8.30 p.m.

I want to ask, and I know that the Minister will come in her wind up, what is the capacity of the Commissioner at present to conduct this exercise? And what measures are being put in place to improve, in terms of where we are now, what is required, and to put the necessary systems in place? What is the role of the CPO in staffing and so on? Or, are these staff members going to be appointed by the Government or by the Minister as we have seen other measures in the Bill?

Madam President, clause 5 of the Bill will amend section 6 of the Valuation of Land Act, to increase the penalty for failure of the owner of the land to file a return from \$500 to \$5,000. Many of my colleagues have already indicated their objection to this steep and unnecessary increase, and I was so saddened to hear the Minister in the Ministry of Finance say that \$500 is nothing. Five hundred dollars may be nothing to certain people here, but \$500 represents a week of food for some families, or in fact, some “doh” even have that much.

But, Madam President, while that point has been made, I want to tie that in to clause 6, which inserts a new section 7A that requires the Commissioner, where he is of the view that more than 50 per cent of all lands in Trinidad and Tobago has been valued and that valuation should take effect to notify the Minister who, by Order, would then declare that the valuations are in effect. And, of course, when these valuations are in effect it brings us now to the implementation of the collection of taxes. But I am asking here, are these penalties going to be in place even before this property roll is established? And this is just for the information for myself and for the public. There is a fine of \$5,000 now, it has been increased from \$500 for persons who fail to file a return of the land. So, I am asking, if you intend to bring in these penalties before, and what is the situation with citizens who have not had the opportunity to file?

Madam President, a number of my points have been made already, but I want to just add in the new ones. I want to endorse what has been said in terms of the objection to the method of appointment of the Valuation Tribunal by the Minister of Finance, and all the implications of a political influence there. I also, Madam President, want to ask a question that has not been raised in the debate thus far. What is the role of the local government authorities in this exercise? What is the role of the municipal corporations? I have not heard a Minister responsible for local government. I do not know if he will contribute, but I trust that, perhaps, even if he does not contribute today he could look into this. In the original Act, Act 21 of 1990, there was reference to an assessor, and an assessor referred to any person appointed as such pursuant to section 79, or to the Commissioner of Valuations under the Valuation of Land Act.

That section 76 which is in Part V of Municipal Corporations Act, Act 21 of 1990, was repealed by Act 18 of 2009, sections 55, 56 and 57. And, it is my view, Madam President, that there is a role for the municipal corporations with regard to valuation of land, and certainly when we come to the discussion on property tax I will talk more about that. But our position has been echoed by Sen. Avinash Singh, who spoke about property tax, the proceeds, going to improve communities, and going to improve roadways, and facilities such as recreation facilities and so on, and it is my view that the municipal corporations must be given a clear role in these activities.

Madam President, I just want to say a few more things with regard to local government. Local government is the arm of government that is closest to people. It is also very close to my heart. This, Madam President, is an opportunity for further decentralization. The People's Partnership held decentralization and devolution of power close to its heart in terms of its principles of governance, not

only directly in local government, but with disbursement of state resources, providing services in every sphere; education, social services, and so on. And the opportunity to build the capacity of the regional corporations to conduct their affairs, to do assessments, later on to collect land and building taxes, whether you want to call it land and building tax or property tax, we will come to that in another debate, but the administration of that, based on the valuation must be informed by a first-hand reality, and I feel that the state agencies or the arm of the government that is best suited to do that is the regional corporation.

Madam President, I also want to just question the role or the purpose of this tax. For every measure that a government brings it should tie in the measures in the policy or in the legislation to some bigger objective. The objective of this piece of legislation, of doing land assessment cannot simply be to collect taxes or to increase the revenue of the Government. What development does this assessment, or this valuation contribute to in our society? Madam President, earlier mention was made of the different methods in terms of being based on property rental, the rental value of property and the other methods, but I just wanted to point out some of the advantages of the different methods which I have highlighted here.

So, I want to go directly to the various methods mentioned. There was a paper done in Fiji, and I was actually done by local government, and it was with regard to land management and the development department of the School of Social and Economic Development of the University of the Southern Pacific, and their property taxes and so on are largely managed by the local government authorities. But in deciding how they were going to assess properties they used methods that would drive development in a particular manner. So that their objective was not only to gain revenue for the Government but to influence

development.

So, it was observed that the unimproved capital value or the site value basis of rating provided much more incentive for urban development. This may be relevant to some areas, even here in Trinidad and Tobago where building development is still in progress and some old structures need upgrading, it encourages the land owners to clear obsolete and dilapidated structures off their land, providing incentives for redevelopment with new buildings, or refurbishment and upgrading of existing structures. And so I ask in the Government, apart from collecting revenue, what is your objective in terms of your development objective? What do you hope to incentivize the citizens to do by bringing these taxes? This unimproved capital value system provides an incentive for full utilization of the land, so that the land owner gets better value if they really do utilize and develop the land fully. So, there is no penalty in the form of higher taxes for making improvement to their property. The disadvantage, as in everything there are advantages and disadvantages.

Madam President: Sen. Ameen, I have given you a lot of leeway, but I think you need to tie all that you are saying now—you have made your points—to the Bill. Okay?

Sen. K. Ameen: Yes.

Madam President: All right.

Sen. K. Ameen: Madam President, I am sorry, I want to mention two other methods, so I want to indicate that my purpose for doing this is to make suggestions, because in the Act, it is based on the annual rental value, and I am asking, if consideration could be given—well, in fact, Sen. Shrikissoon, I did not want to repeat the point he made, where multiple methods were suggested or could be used at the discretion of the authority. And I am saying that these are some

suggestions that I would like the Minister to take into consideration in terms of the method to be used, and what incentives it could provide apart from just collecting revenue.

Some of the difficulties with the unimproved capital value, is that it would it—the disadvantage of this system is that it would obtain accurate transactions of vacant plots in highly developed—obtaining the information could be problematic in areas where you have a lot of vacant lots and transactions taking place rapidly, gathering the information could be problematic. Also, it may be difficult to obtain sufficient rental figures for industrial and residential buildings as they are largely owner occupied. But, for the commercial and industrial sector, capital value is derived from the capitalization of rental transactions, and the figures could be provided from the records of the occupiers which would often be the renters.

Another method is the annual value rating system. This rate is levied on the estimate of rental value of the property which is being proposed by the Government, and it deals with the quality of market rental evidence. Well, this mention was made earlier as well, that it could be eroded over time, and you would have to do assessments regularly in order to accurately reflect the rental value of these properties, whether they are improved or they depreciate. Other difficulties, of course, with this system that is being proposed by the Government now, would include the increased level of owner occupation of properties, and extremely active capital market.

The rental is closely tied to its existing use rather than its best use. So even now, Madam President, the forms attached to the schedule in the Act asks the owner to submit what they think is the rental value. There is no incentive for the owner to use this building for some better purpose. In many instances the owner will try to perhaps see what is the least they could possibly pay in property tax. So,

the use is really not the best use. The eventual use is not tied to the best use. Administratively, this system is complicated by the existence of owner occupied vacant land for which estimates must be made, and in an area where no extensive system of cash rent exists.

Sen. Mahabir made mention of a Rent Assessment Board, which is I think defunct in Trinidad and Tobago, where does an owner/occupier get accurate information to suggest what the rental value of his property is? This system of valuation is suitable in a country where there is an active rental market, where information is available, where, as I said, the Rent Assessment Board is actually operational. We need some sort of uniformity with regard to development that would allow the comparison of properties, and sufficient development to provide the volume of data that is required. I do not believe that these parameters are available in Trinidad and Tobago, and this is what is being presented to us as sort of the premier option with regard to assessing properties.

So, Madam President, if the Minister could just indicate, as I say, what the incentive, what the development incentives of this assessment is, and would be, it would, I think, add value to the public information. I also want to implore the Government, Madam President, this Bill requires a simple majority. They will go through with it in spite of the objections from the Opposition, from voices in the Independent Bench, and even in the public. But, I think, Madam President, I hope the Minister could share with us, what are some of the methods you have to educate the public about this exercise? What it entails? We have seen a battle of words in the media, public statements from the Minister. We have seen court objections, going to court with regard to this attempt by the Government to conduct an exercise that citizens are not properly informed of, and it is my view that a proper education exercise should be done before the exercise starts. There

are many questions, and I think they have been raised in the public domain. But certainly when you engage the public you will be able to answer the questions directly.

So, I want to implore the Government, even though it has the power and it has the authority to go ahead and not listen to the public on this matter, that there really needs to be a greater level of education. I think they have passed this stage for consultation. That should be done before the measures are brought to the House. But, even now as it is, even we ourselves should have the opportunity to hear how the Government intends to approach this. Madam President, I am concerned about the exercise itself in conducting the valuations. I had a look at the forms. I have refused to submit the form. It is not yet law, and the Government has sort of attempted to frighten citizens into submitting the form. And I think that sort of scare tactic being used by the Government with a big stick over the shoulders of the citizens does not auger well. We already have so many taxes that people have no choice in. You told the population you would reduce VAT and you increased VAT. You have so many other taxes being brought, and here you have another measure where people are being frightened that they could lose their property, and so when the announcement was made by the Minister, even before the legislation was brought, people were flocking to the offices in droves. It is clear from that exercise that the offices presently do not have the capacity to even receive the forms that are being submitted voluntarily.

So, I am asking, what will happen when this becomes mandatory and people have to submit their forms? Are they going to be lining up in the hot sun, as we saw some months ago, waiting to submit this form, and if they do not do it they could be fined, not \$500, which is nothing, but \$5,000? I have a serious concern with that. So, I am sure the Minister may make mention of that. But, in the

instance where a person may be willing, but they simply do not know what the rental value of their property is, what sort of redress, what sort of assistance, support can these officers provide if they do not have the capacity to receive the forms as is? When a person is saying, listen, I do not know the rental value of my property is, can you—

Madam President: Sen. Ameen, I am sorry, but you are now really repeating what you said before, and you are also going back on issues that have already been raised by previous speakers. So, I am going to ask you now to either wrap up or raise a new point in your remaining time. Okay?

Sen. K. Ameen: Okay. Thank you, Madam President. So I want to ask that, I think, you indicate if any support is available to persons who are willing to submit the forms, and they do not know how to determine the value that they should put on the form so that they will be treated fairly in the exercise.

Madam President, I just want to close by saying that the United National Congress has indicated that at some point the taxation of property is something that we must look at, but we cannot support the valuation of land exercise as is being done here today. I know that the trend of the Government is going in a very negative direction now, and I look forward to engaging the citizens, as the PNM goes out of Government, to have a fair system of valuation and a fair system of taxation for all citizens.

Thank you. [*Desk thumping*]

Sen. David Small: Thank you very much, Madam President, for giving me the opportunity, almost 11 hours into this debate, to join in, and I have no plans to be here very long. But I think it is incumbent upon me to be able to give a few remarks on the things that have been said today, and share some of my thinking.

Madam President, I think that, I have looked at this. I have listened to

virtually all of the speakers in some way or the other. I believe as a country we are trying to move the country forward, and one of the things that we have to look at is the fact that we have systems in place, and those systems are archaic. Those systems would have been created years and decades ago, and I see this Bill, Madam President, as one move of trying to modernize one part of the system. My other issue, Madam President, I think I am on the record here in this Chamber, of saying several times, and I will continue to say it, no piece of legislation I have seen in the past couple of years that I have been here is anywhere near perfect. I am always willing to accept a 60 or 70 per cent solution, because it allows us to move forward, rather than trying to refine it to the point where everyone is happy, which would probably never happen. Because I have seen cases where people are happy with things, and then immediately as it becomes alive people have challenges.

So, we are here to debate amendments to this, the Valuation of Land Act, and this is a piece of legislation, Madam President, that, alone by itself almost has no effect, because it is linked to another piece of legislation, the Property Tax Act. And I think that, Madam President, the concerns expressed—there is one concern that I want to join in, and I would not go any further with it, but it has to do with the establishment of the Valuation Tribunal, I support the creation of the establishment of a tribunal, but I have a challenge in terms of the Minister having the authority to appoint that tribunal. And I have listened to the explanation provided by the hon. Attorney General, earlier. I understand the position he has taken. But I think because we are going in a different direction now, we are taking valuation of land into a new forum, where we are putting a more rigorous system in place, I think you have to marry some of that with what you are trying to do, with the concerns of the people at large, citizens in general. And I think by having

those officers inside of the tribunal appointed by Her Excellency, would give people the confidence that at least there is a high level of impartiality. And I think that is something that I would like to hear the Minister in her winding up, and certainly the AG, if he gets to speak: What are the Government's views on that?

So, Madam President, I want to go quickly to a couple of things inside of the clauses. I think that clause 3(a)(i), where it deals with appeal the decisions to the Commissioner of Valuations. Madam President, in the current structure of the Valuations Act is that you go to the Tax Appeal Board. And as a person who in my other endeavours have had to take a matter to the Tax Appeal Board, and 11 years later I am still waiting on a determination—and I am not blaming anyone. But that is just the system. So that while I understand the views about trying to strengthen the Tax Appeal Board, I am of the view on two fronts, Madam President, of having the tribunal will allow for a group of people to be dealing exclusively with valuation matters. So, that is one. You allow them to focus purely so that your matter does not get lost in all the other matters that the Tax Appeal Board is dealing with. And then from a time issue, I do not anticipate that any valuation matter will go to the Valuation Tribunal and take five years. I do not anticipate that.

So I think there are benefits and there is value in having the tribunal in place. So I believe that this provision is superior to what we have now, provided, of course, the concerns that have been placed on the table here around the method of appointment of that tribunal are addressed.

Madam President, one of the key clauses for me, inside of this amendment, is clause 3, I think (c), where we deal with the separation of accommodation in multi dwelling and single dwelling accommodation. This is very, very important. Madam President, I recall a couple of decades now, almost, I arrived in the UK to

study and I moved into my ground floor flat, and if I moved in on a Wednesday, the Thursday morning I got my council tax advice, and it was for occupant of the flat, and that is how the system is. You are the occupant, and it was a multi-tenanted facility. But every person inside or every occupant received a council tax billing, and it is even, and there is valuation. Because, for instance, those who were on the ground floor flat, because they had access to the yard or the garden would have paid a higher council tax than those who were on a higher level. And for a long, long time the current system we have has not been able to capture these multi-dwelling places. In many cases, these are multi-million dollar residences, and people have not, in my view, been able to do or contribute their fair share to the tax coffers of Trinidad and Tobago. I think that this provision here closes that gap and allows for those who, in many quarters could probably afford it the most, to make their fair contribution to the tax base.

Madam President, I am on the record here and my views on this are clear. Those who could afford to pay more should be made to pay more. If you could afford a million dollar condo, you can certainly pay your share of tax to the State of Trinidad and Tobago, to make sure that all of us have access to the services.

Madam President, I have a couple of more things. I do not plan to stay here very long at all. I had raised, Madam President, the issue of—I have noted at clause 8(c) where I have a concern about making sure that the application of this in terms of notice being deemed to have been served within two weeks after dispatch. If we are working with TTPost we have a challenge, and I think that there needs to be some understanding by the parties who are managing this. I think that on a previous occasion speaking here, I had indicated that I am one of those persons who submitted my valuation form, and the notice of receipt of same, from the date on outside of the envelope that it was stamped as dispatched, it took 11 weeks to

get to me.

So that we live in a place where systems are not efficient. First class mail is not something that really works in Trinidad and Tobago, and my concern is here, that something gets delayed, and I have a good example: We received a document here today on our desk when we arrived, and it is from a particular institution on Independence Square, literally a stone's throw, but on the outside of the envelope it is stamped Piarco Sorting Centre. To go two blocks from here to here, it had to go to Piarco to come back to here. I am not in the post business, but these are the things that we are dealing with here, and we want to make sure that citizens, or at least those who are applying it, understand some of the weaknesses or the failures of the current systems that we have in place. So I have no great objection with the provision, but I want to make sure that in the application, that people understand the realities of the post system, as best we have it in Trinidad and Tobago.

9.00 p.m.

One of the other things I like, Madam President, is that inside clause 12 there is a provision that allows for the tribunal to step in and treat with any objection that the Commissioner has not treated with in 12 months. I think this addresses another major weakness of the current system, where things sit on the Commissioner of Valuations Office for all good reasons I suppose, just the volume of activity. But this provision allows now for the tribunal to kick in almost automatically, to kick in and say, listen it has been 12 months since you have lodged your application. Let us pull these out and start to treat with them. And I believe that that is a strength inside of the legislation that I have seen here.

Because, Madam President, the whole idea about the tribunal, which I support, I really, really support it because I had sat at the Joint Select Committee dealing with the procurement, the amendments to the Procurement Act, and when

we did the review board, and the whole mantra is that we are trying to move towards a system—all around the world, including Trinidad and Tobago—towards more alternative type dispute resolution, where we can hopefully avoid litigation which is costly in more ways than one, not only in money but also in time. And that while inside of the provisions every one still has the recourse to the High Court, I believe one of the other things inside of there is that the provision, I think it is somewhere in there, 25(1)(a) and (b), it allows for the adjournment of the proceedings of the tribunal.

So that the parties could be working through a matter and then decide, listen, could we have a conversion outside of the formal workings of the tribunal to see if we can resolve this matter amicably. And I think that that is something that, in the current way it is structured now, goes to the Tax Appeal Board, you do not have that opportunity. So for me it presents or gives citizens who may be aggrieved or who disagree with the decisions or the rulings of the Commissioner of Valuations more options than exist now to treat with your matter and perhaps in a more cost effective way.

So I like a lot of the provisions in here. I was excited to see them, because I am saying this is where you are providing citizens with more than one way to treat with issues and allows them to be able to get a matter resolved and try to avoid the normal adversarial way in which things are dealt with in a judicial system. Right.

Well, Madam President, I also wanted to talk about the issue around—let me get my few notes here, I do not have many notes. I think that one of the things that stand out for me, Madam President, is that there is a provision that “The Minister shall not give directions to the... Tribunal...” I was looking elsewhere to see where else there is a provision that says that a Minister cannot—there is a lot of provisions what Ministers cannot do, but I have struggled to find another provision

where the Minister cannot do this.

So, I like it because on one level—but I ask a different question, Madam President. If you say that the Minister should not do this what happens if he still does it or it is proven that he still did it? What happens in that case? And it is silent. I am not saying it is something that is hugely— that I need an absolute response on. But by putting it in there my logical brain takes it to the next step that you say the Minister cannot do, X, Y, Z, great. I ask then, if you are specifically saying he cannot do this what if it is proven that he did or she did? What happens then? And I am not sure.

There is no penalty or anything that, well, if it is proven that this person has interfered in this process in spite of this expressed reservation that they should not, so I just wanted to understand. Well, I like the provision, it is an interesting provision but I would just take it to the next natural conclusion and I do not get it. So I think it is good that it is in there but I think it is still missing something.

So I had one other issue, Madam President, in terms of how we move forward and it had to do with the issues inside of the Schedule. I listened earlier to many of the contributions. Madam President, we need to get to a place where there is rigour in what we do. We are very used to, in Trinidad and Tobago, working with loose systems and things that are not rigorous. And when you look at the Schedule you are placing, actually it is forcing, putting pressure on persons to be truthful. So let us say that you have a property and you have three or four tenants renting, you actually have to provide what your estimates of the rental you are going to receive but you also have to put the names. And I think it is important that you put the names because if you do not do that then you are essentially saying, well we trust you, Mr. Landlord, to provide absolutely truthful evidence to the State.

I would like to say that if I were the Minister of Finance, that is not a step I would want to do, because landlords and a lot of other types of business people have proven themselves to be, not the person who you would want to repose all this high level of trust, particularly, when you are talking about getting revenue to the State. So that I like inside of the Schedule where you make people put as much information as possible so that they can justify. Because what it does, it forces them that if they know this is where the issue about willfully putting wrong information on the form comes in—because I listened to the argument about the 500 and the 500,000 but for me I grabbed the point that, the same point that was raised earlier by the hon. Minister Le Hunte. It says wilfully. It is not that, “Well, I made a mistake”. Okay, I am not an attorney so who is going to determine wilfully does it. The attorneys on the Bench or other places could explain that.

But for me it does not just say, well, you made a mistake in the form and will be fined \$500 or \$5,000 or whatever it is. It says wilfully does it. So for me it means some type of objective test needs to be passed to demonstrate that you wilfully put the wrong information. And if you wilfully try to falsify information that will diminish your taxes payable to the State of Trinidad and Tobago you should be hit probably with a fine. There is no—I cannot see any real reason for anyone to object to that but, of course, this is a democracy, Madam President, we are all entitled to our own views and I just have one or two views on these small matters before I close off. [*Crosstalk*] Small matters. No pun intended, Madam President.

So, Madam President, I think that what we are trying to do here is apply, put a filter, put some rigour around how we develop the valuation system in Trinidad and Tobago that is going to feed into the Property Tax Act. Where we are as a country, we are trying to improve our systems as we go along. I see this as one

step along that journey and, as in anything, Madam President, we are trying to do something different, something new, they are going to run into one or two little bumps, but I believe that you have to try to make these steps. We will always try to say, let us stop, let us consult and let us get everything perfect and then what happens many times, is that you do not move.

So I believe that we have to try to move and I am not saying it is right or perfect, but I believe that in the current form with one or two amendments I think we could fix it and we will put it in a place where we could get this done and we could try to see how the citizens of Trinidad and Tobago—this is going to be important for citizens of Trinidad and Tobago to understand that we are here, we are all born here, we have the ability and the right to enjoy life in Trinidad and Tobago, but life in Trinidad and Tobago is not free. And that we should all be able to pay our taxes and that if you have a property, valuing your property should be done in a way that allows the State to be able to charge you the taxes in a fair manner, and I do not see any huge devils or anything inside of here. As with anything, Madam President, there will always be outliers in every system. There will always be, probably a few people will always have challenges, but I think for the vast majority of people this is not something that is going to unduly disrupt their lifestyles or cause them any pause, any mass hysteria; I do not get that.

And as I begin to close, Madam President, I come here every day, or every, as it is every day. I think I am going to be here—in less than nine hours I am going to be back in another room here doing another duty. I think I am a part-time person here, Madam President, so someone said in the SRC report. But I believe that when we come here, I come here with a focus on getting things done for Trinidad and Tobago. That is why I come here, that is my focus. And that when I come here I try to look at the whole picture. So I understand everyone has

concerns, I have concerns as well. But I try to roll those concerns up to try to understand in the global activity that we are trying to do here, we are trying to improve Trinidad and Tobago and if part of that involves improving the revenue-capture system for the state, putting some shape and rigour around how we do that, that is something I could support. So, Madam President, with those few words, I wish to thank you for the opportunity to join in this debate. [*Desk thumping*]

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, before I start my response on the matter that is substantively before us, I would just like to correct the record in respect of a comment made by Sen. Ameen in her contribution. As was done by the other side after the first ruling in the Devant Maharaj against the Commissioner of Valuations matter, when the UNC claimed victory in that matter, again they sought to claim victory today in the matter involving the Eden Gardens. So I would just like to correct for the record what happened in that matter today.

The judge in that matter originally extended the period given to the State to file the documents beyond four months. Today, she overruled that order and said she ought not to have given that extension. So what is now required is that this matter needs to be refiled and the substantive matter debated. So it is not that the other side won after the substantive matter was debated and the decision made. It is merely the form that needs to be corrected. It will be corrected. The State is determined to pursue and prosecute these matters and this is where we are. Just for the purpose of correcting the record. [*Desk thumping*]

ADJOURNMENT

Motion made and question proposed: That this Senate do now adjourn to Friday, April 20, 2018 at 1.30 p.m. [*Hon. C. Rambharat*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.13 p.m.