

**SENATE**

*Thursday, April 26, 2018*

The Senate met at 2.00 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]



**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Allyson West who is out of the country.

**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. AYANNA LEEBA LEWIS

WHEREAS Senator the Hon. Allyson West is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:  
NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, 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, AYANNA LEEBA LEWIS, to be temporarily a member of the Senate,

**UNREVISED**

with effect from 26<sup>th</sup> April, 2018 and continuing during the absence out of the country of Senator the Hon. Allyson West.

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 26<sup>th</sup> day of April, 2018."

### **OATH OF ALLEGIANCE**

*Sen. Ayanna Leeba Lewis took and subscribed the Oath of Allegiance as required by law.*

### **PAPERS LAID**

1. Green Paper on the National Policy on Gender and Development. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Siparia Regional Corporation for the year ended September 30, 2013. [*Sen. The Hon. F. Khan*]

### **URGENT QUESTIONS**

#### **Closure of Charlotte Street Heritage Route Market**

#### **(Government's Intention)**

**Sen. Wade Mark:** Thank you, Madam President. To the hon. Minister of Rural Development and Local Government: In light of the decision to close the Charlotte Street Heritage Route Market, can the Minister inform the Senate of the action the Government intends to take to address the concerns of the vendors?

**The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein):** Thank you very much, Madam President. Madam President, I thank the hon. Member for his question. I have been assured by the Mayor of Port of Spain that the council intends to engage in consultation with the Charlotte Street

Heritage Route Market Vendors to ensure that their concerns are heard and resolved. Madam President, we recognize the importance of these vendors and the Ministry has requested a full written report from the city on this entire issue.

The Government has always been concerned about those in our society who are in need of opportunity, and I am personally committed to consulting with these vendors and find an amicable solution to this vexing problem. If the city is to continue developing as an inclusive space, it is important that we consider all the ways to ensure that persons of all backgrounds are successful and can participate in its growth. Thank you. [*Desk thumping*]

**Sen. Mark:** Madam President, through you, can the hon. Minister inform this House why did the council of the City of Port of Spain take a unilateral decision without any consultations with the vendors to shut down this heritage market?

**Sen. The Hon. K. Hosein:** Thank you, Madam President. Madam President, I do not know if I could quote—I am not so well au courant with the House—but the newspaper report from the Mayor of Port of Spain said this morning he did not consult with the vendors. So I took it upon myself to call him and have a dialogue with him, and he assured me that he will consult with them, and I am going to take a personal interest in doing so.

**Sen. Mark:** Thank you, Madam President. Madam President, is the Minister aware that the vendors are so aggrieved by this decision of the council that they may be contemplating legal action against the corporation; so angry are they on the action taken by the council. Are you aware of this development?

**Sen. The Hon. K. Hosein:** Thank you, Madam President. Madam President, I understand exactly what Sen. Wade Mark is saying because in my previous role held as the Mayor of San Fernando I interacted with vendors for three years and I had absolutely no running problems with them. I understand Sen. Mark what you

are saying, and I want to give you the assurance again that I will meet with them at the earliest convenience, very early I should say because I understand the plight of these people, very important people in our society. [*Desk thumping*]

### **Mixing Components for Orthopedic Surgeries**

#### **(Measures Taken)**

**Sen. Paul Richards:** Thank you, Madam President. Good afternoon everyone. To the Minister of Health: Can the Minister indicate what measures will be taken to address the issue of mixing components from different manufacturers for orthopedic surgeries?

**The Minister of Social Development and Family Services and Acting Minister of Health (Hon. Cherrie-Ann Crichlow-Cockburn):** Thank you, Madam President. Madam President, an audit has been launched into all implants done at the Port of Spain General hospital from January 2017 to date, with a timeline of one week for a preliminary report. This is to ensure that correct devices were used in compliance with international regulatory standards. All companies who are direct suppliers to the regional health authority have been requested to provide the list of the companies that they received their orthopaedic supplies from and to provide the proof of verification that must meet international regulatory standards. Only prequalified companies meeting this requirement will be engaged.

At the hospital level, at the time of receipt of the orthopaedic supply at the operating theatre, the implants supplied will be checked against the purchase order request providing to the supplier and signed off as received by one, the representative of the supplier and, two, the sister in charge of the operating theatre. In addition, prior to the patient being brought to the operating theatre the surgeon will check the implants supplied against the original purchase order with the operating theatre manager to ensure specifications are met. Thank you, Madam

President. [*Desk thumping*]

**Sen. Richards:** Thank you, Minister, for that comprehensive answer. Can the Minister indicate if it is prudent at this time to put halts on surgeries while the audit is being conducted to ensure that lives are not put at threat if there is a compromised in terms of the standards being met medically?

**Hon. C. Crichlow-Cockburn:** Madam President, the Ministry is being very prudent. Having recognized that there was an issue, the strategies I identified here are currently being implemented so that the checks will be done to ensure that there is compliance and that the implants meet regulatory standards.

**Sen. Richards:** Thank you again, Minister. Madam President, through you, will the Ministry be doing a more extensive audit to see if there were breaches prior to the week that you outlined in your initial answer to see if anyone's life may have been put at risk even before that week where the audit is being conducted for surgeries that may have been completed before that time?

**Hon. C. Crichlow-Cockburn:** Madam President, the hospital has been and will continue to monitor the situation to ensure that this does not reoccur.

### ANSWERS TO QUESTIONS

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. Madam President, the Government is pleased to announce it will be answering all questions on the Order Paper, save and except questions No. 119 and No. 125, in which we ask for a two-week deferral. Questions Nos. 119 and 125. All others will be answered.

### ORAL ANSWERS TO QUESTIONS

*The following questions stood on the Order Paper:*

#### **Blue Basin Waterfall**

**(Safety Measures)**

- 119.** In the aftermath of a man having drowned at Blue Basin Waterfall in Diego Martin, can the hon. Minister of Tourism inform the Senate of the measures that are in place to ensure the safety of swimmers and visitors to the Waterfall? [*Sen. T. Obika*]

**T&T Nationals Participation in ISIS**

**(Measures to dissuade)**

- 125** Having regard to the ISIS conflict in Syria and reports of the alleged participation of a number of Trinidad and Tobago nationals, can the hon. Minister of National Security indicate what measures are being implemented by the Government to dissuade Trinidad and Tobago nationals from participating in conflict on behalf of ISIS? [*Sen. S. Hosein*]
- Questions, by leave, deferred.*

***Galleons Passage***

**(Details of Dunn and Bradstreet Report)**

- 64. Sen. Wade Mark** asked the hon. Minister of Finance:
- Having regard to the Dunn and Bradstreet Report on the *Galleons Passage*, can the Minister indicate the following:
- i. the main elements contained in the report; and
  - ii. the cost of said report?

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam President. I have in my possession an updated report Dunn and Bradstreet on a company by the name of Sealease Limited which is the company that sold the *Galleons Passage* to the Government of Trinidad and Tobago. The Dunn and Bradstreet Report confirms the Government's own research that this is a reputable company with no adverse issues. The address and the directors and shareholders of the company are as we know them to be. The chief Executive is Mr. Stuart Ballantine. The parent

company is Sea Management Corporation Services of Australia, and to the read some of the elements of the report: nothing detrimental has been found against the company in the Hong Kong District High Court or Gazette files; no record found against the company in the Small Claims Tribunal files. That is it.

**Sen. Mark:** Madam President, can the Minister indicate whether those are the critical or key elements that comprised the Dunn and Bradstreet Report?

**Hon. C. Imbert:** Yes.

**Sen. Mark:** Can I ask the hon. Minister, on behalf of the Opposition, when he will be tabling formally a copy of that entire report for the public consumption?

**Hon. C. Imbert:** That would be subject to Cabinet approval.

**Sen. Mark:** Madam President, may I ask the hon. Minister whether Sea Management Services Company Limited, of which Sealease is a subsidiary, is also the same company in which Ocean Design and Survey, the valuator of the said boat that we have called *Galleons Passage*, is also a subsidiary of Sea Management Services Company of Australia?

**Hon. C. Imbert:** Madam President, I am not aware of that.

**Sen. Mark:** Madam President, if the Minister becomes aware of that, would the Minister be prepared to scrap that whole valuation exercise and begin an entirely new exercise because there is a clear conflict of interest—[*Interruption*]

**Madam President:** Sen. Mark, one question please and succinctly to the Minister.

**Sen. Mark:** Has the hon. Minister if he becomes aware and I bring evidence to show that this company is in fact a subsidiary of the Sea Management Services Company of Australia, whether his Government would be prepared to scrap that entire valuation exercise?

**Hon. C. Imbert:** Madam President, again we seem to have memory problems. We have a valuation from Schulte Marine at US \$35 million, and Schulte Marine

has no relationship whatsoever to the seller of the vessel.

**Trinidad and Tobago Cancer Society**

**(Measures to Assist)**

**74. Sen. Wade Mark** asked the hon. Minister of Health:

Given the failure of the Ministry over the last three years to allocate funds to the Trinidad and Tobago Cancer Society, a non-profit institution, can the hon. Minister of Health indicate what measures are being taken to assist this important organization?

**The Minister of Social Development and Family Services and Acting Minister of Health (Hon. Cherrie-Ann Crichlow-Cockburn):** Thank you, Madam President. Madam President, an annual sum of \$1.5 million was approved for the Cancer Society in the fiscal year 2018 for a period of three years with payment effective from January 01, 2018. To date, a sum of \$750,000 was paid to the society representing two quarters, that is, for the period January 01 to June 30, 2018. Thank you.

**Sen. Mark:** Madam President, hon. Minister, could you indicate whether there was a challenge in meeting the subventions normally made to this particular governmental institution over the last three years?

**Hon. C. Crichlow-Cockburn:** Madam President, there was no challenge in meeting the subvention to the Cancer Society. What happened is there are some requirements that must be met before we can continue with the subventions. For example, the quarterly and annually reports must be submitted, audited financial statements must also be submitted, and the organization is normally required to submit a proposal with a budget. This was not submitted by the Cancer Society during 2016/2017. Thank you.

**Sen. Mark:** Can the hon. Minister indicate to House whether everything has been

done by the Ministry of Health to ensure that there are no further disruption to the allocation of funds to the Trinidad and Tobago Cancer Society?

**Madam President:** Sen. Mark, that question does not arise. Next question.

**Sen. Mark:** No, I am fine.

**Sargassum Seaweed**  
**(Effects in Coastal Waters)**

**92. Sen. Saddam Hosein** asked the hon. Minister of Tourism:

Can the hon. Minister of Tourism indicate what steps are being taken to minimize the effects of the sargassum seaweed in the coastal waters of Trinidad and Tobago?

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

Madam President, may I indicate that I am answering this question as it is in the portfolio of the Ministry of Planning and Development. The Institute of Marine Affairs in conjunction with the Global Environment Facility Small Grant Programme has developed a draft national sargassum response plan after multi-stakeholders meetings held in October 2015. The draft plan outlines a suite of potential management actions and synchronized approach to addressing the sargassum incursion. The objectives and components of the plan include the development and implementation of an early warning system communication strategy, as well as coordinated clean-up efforts and emergency response teams, research and monitoring.

Certain actions have already been implemented consistent with the plans such as the establishment of a local sargassum network. Once information including satellite imagery is shared on the regional sargassum network through the specially protected areas and wildlife Regional Activity Centre which is the United Nations Environmental Programme, Caribbean and Environmental

Programme, project sargassum, management and impact regional centre, the information is disseminated through to the local network to initiate necessary action. The Tobago House of Assembly, through the Tobago Emergency Management Authority and the former Department of Natural Resources and the Environment, have developed their response plan and have identified sites for storage or disposal in the east, central and southwest Tobago. These centres are located in the Goldsborough Estate, the Courland Estate, and the Friendship Estate.

The Sangre Grande Regional Corporation with technical assistance from the IMA also conducted an assessment on potential storage and disposal sites within the corporation, and the site deemed most suitable is located 50 metres off the Callera Road. Research is also being conducted by the University of the West Indies and the University of Trinidad and Tobago to determine commercial uses of the seaweed such as conversion into manure, fertilizers, fungicides and fish food. The IMA has also prepared and disseminated public education and awareness material on sargassum. Thank you, Madam President. [*Desk thumping*]

**Sen. S. Hosein:** Thank you, Madam President. In response to the answer given by the Minister with respect to the sargassum plant, there are reports that currently the beaches in Mayaro there are a lot of sargassum seaweed there right now. Is the plan currently in effect to deal with the sargassum that is on the beach right now?

**Hon. C. Robinson-Regis:** Thank you very much, Madam President. Yes, it is.

**Sen. S. Hosein:** Is the Minister aware that the amount of sargassum that are on the beaches right now are actually affecting the fishermen from actually going out to fish because of their nets and the boats from actually traversing through the sea?

**Hon. C. Robinson-Regis:** Madam President, that has been occurring and it has also been affecting the turtle nesting sites, and what we have been doing is cleaning up as quickly as possible, but, Madam President, you will recognize that

sargassum is a very invasive seaweed and as soon as we are aware that there is a problem the clean-up has been taking place.

**Sen. S. Hosein:** Madam President, is the Government going to implement or offer any relief to those fishermen who are actually affected by the sargassum seaweed?

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

**Sen. S. Hosein:** Madam President, I have one more question.

**Madam President:** Yes.

**Sen. S. Hosein:** With respect to the answer given by the Minister where research is actually being conducted by the UWI to convert the sargassum into manure and fish food, how soon would this actually occur where the seaweed can actually be transferred to manure and fish food. Converted, sorry.

**Hon. C. Robinson-Regis:** The research is ongoing, Madam President.

### **Building of Multistorey Complexes**

#### **(Measures taken)**

**97. Sen. Wade Mark** asked the hon. Minister of Agriculture, Land and Fisheries:

In view of the public disquiet over the Government's decision to build multistorey complexes on lands of the St. Augustine Nurseries in Curepe, can the Minister indicate what measures are being taken to engage with stakeholders and address their concerns?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, there were three consultations on the housing development project proposed for Curepe including one held yesterday 25<sup>th</sup> April, 2018. The Housing Development Corporation of the Ministry of Housing and Urban Development, and the Ministry of Agriculture, Land and Fisheries, have taken note of the issues raised and are working with all stakeholders involved. The

issues include potential flooding, traffic, and issues relating to the preservation of unique germplasm. The flooding issue was addressed by the Ministry of Works and Transport at a Valsayn meeting, traffic issues are being addressed by Highways Division and Traffic Management Branch, school places is a matter being addressed by the Ministry of Education, the issue of the unique germplasm is being addressed by the Ministry of Agriculture, Land and Fisheries, and any other concern would be addressed by the Government of Trinidad and Tobago. I thank you. [*Desk thumping*]

**Sen. Mark:** Madam President, in light of these challenges and the considerations via these consultations, can the Minister indicate to us, or this Senate, whether the Government intends to issue or proceed with a moratorium while these consultations are in session?

**Sen. The Hon. C. Rambharat:** Madam President, I am not very clear what is meant by a moratorium, but I can say that the Government and the respective agencies which I have identified have taken into consideration the issues identified and are all addressing the issues that have been identified.

**Sen. Ramdeen:** Thank you, Madam President. Madam President, through you, to the hon. Minister of Agriculture, Land and Fisheries, I would like to ask the Minister if the Minister has seen the presentation that has been made by the HDC to the public in these public consultations.

**Sen. The Hon. C. Rambharat:** Madam President, I have not attended any of the consultations, but I am familiar with the material that has been presented by the HDC at the consultations. I am familiar with the issues that have been raised at the consultation by way of reports I have received and what are followed in the media, and recording I have seen, and I cannot say I am familiar with everything that has transpired, but I am familiar with most of the matters.

**Sen. Ramdeen:** Thank you, Madam President. A follow-up on that answer from the hon. Minister. I thank the Minister for the answer. Is the Minister of Agriculture, Land and Fisheries satisfied that the information that is provided by the Housing Development Corporation at these public consultations with respect to this project, provides the public and those affected by this project with enough information to be informed about the effects of this project in St. Augustine?

**Sen. The Hon. C. Rambharat:** Madam President, as I have said, concerns have been raised. In fact, yesterday's consultation went late into the evening as far as I know, and I would never be satisfied that the concerns have been taken into consideration because, for example, fully satisfied because yesterday's consultations there were concerns raised that I know have not been addressed. So this is an ongoing process. There is a particular process that must be followed in these development projects, and ultimately the Government has an interest in satisfying all the issues that have been raised.

**Sen. Mark:** Would the Minister indicate whether in the wake or in the face of these consultations and the continued destruction of vital trees essential for—

**Madam President:** Sen. Mark, could you ask the question, please.

**Sen. Mark:** Can the Minister advise this honourable House whether he intends to call for a discontinuation of the destruction and cutting down of trees in the St. Augustine Nurseries?

**Sen. The Hon. C. Rambharat:** Madam President, the trees that are being removed not only in St. Augustine Nurseries, but at three plant propagation stations around the country, this is in compliance with the law. Citrus greening has been declared a notifiable disease. The Ministry, through expert advice, has determined that there are diseased trees at these propagating stations and the local citrus industry if we have to create new planting material for the industry, we have

to do it at propagating stations which are free from the citrus greening disease.

So, Madam President, the Minister does not get involved in that. There are technical officers in the Ministry, and I would say that in January 2018 the Director of Agriculture Services, Patricia Maraj, made a request of the Permanent Secretary in the Ministry to destroy over 2,900 citric trees including 1,622 at St. Augustine Nurseries in compliance with the appropriate regulation.

**2.30 p.m.**

And that is something that is dealt with by the technical officers of the Ministry and the Minister is not involved in it.

**Sen. Ameen:** Thank you, Madam President. Could the Minister—you indicated that the trees would be destroyed. After the removal of the diseased trees, the land is not affected, so does the Government intend to continue use of the land for the same purpose?

**Sen. The Hon. C. Rambharat:** Madam President, having regard to a decision, a policy decision, taken by the Government, which has been well articulated, the Government is pursuing the development of a housing project in that area.

### **Blacklisted by European Union**

#### **(Reasons for)**

**98. Sen. Wade Mark** asked the hon. Attorney General:

Can the Attorney General inform the Senate why this country is still blacklisted as a tax haven by the European Union?

**The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi):**

Thank you, Madam President. Madam President, Trinidad and Tobago has not been blacklisted as a tax haven by the European Union. A list of non-cooperative jurisdictions for tax purposes was published by the Council of the European Union on December 05, 2017, comprising 17 jurisdictions, including Trinidad and Tobago

and also listing 44 other countries that were called upon to implement good governance principles and measures against tax evasion and tax avoidance.

That list was updated on March 16, 2018, which identifies Trinidad and Tobago, together with eight other jurisdictions: American Samoa, the Bahamas, Guam, Namibia, Palau, Samoa, St. Kitts and Nevis and the US Virgin Islands. The list is based on the EU's assessment of compliance by countries, with the Council of the European Union's three criteria comprising, tax transparency, fair taxation and implementation of anti-base erosion and profit shifting measures— otherwise referred to BEPS—which form part of a package of measures that are intended to boost global transparency. The main part of the criteria is to enhance transparency in the field of taxation, which is linked to combating tax evasion and improving tax collection.

The publication of the Council of the European Union is directly linked to the tax transparency obligations under the OECD, the Organisation for Economic Co-operation and Development, Global Forum on Transparency and Exchange of Information for Tax Purposes. This was a commitment given by the former Government in January 2011, for Trinidad and Tobago to comply with these international obligations with no measures, no steps and no work undertaken by the UNC Government to achieve these purposes in the period 2011 to 2015.

This Government has established a technical working team, tasked with addressing all the outstanding matters. We have provided high-level political commitment to the EU, on November 21, 2017, and further on March 14, 2018, to ensure Trinidad and Tobago's full compliance with the Council of the EU criteria.

The current legal framework already facilitates the exchange of information for tax transparency to a certain degree, but does not fully satisfy the EU criteria. In order to address the EU criteria, a comprehensive review of all our current laws

was conducted, together with the drafting of new legislation and amendments to current law by a technical working team, led by the Ministry of Finance and the Ministry of the Attorney General and Legal Affairs. The review was conducted with the support of the Global Forum, with a package of legislation to be introduced in Parliament shortly. I remind, all of this should have been done in the period 2011 to 2015. But none of it was done by the UNC Government then.

The Government intends that the package of laws comprising amendments to the Income Tax Act, amendments to the double taxation agreements, by way of a Bill to that effect; the Companies (Amdt.) Bill, which we have drafted for that purpose; and the Mutual Administrative Assistance in Tax Matters Bill, 2018, will be brought to Parliament shortly. We will require the support of the Opposition for that purpose, as some of these measures contained in the proposed legislation will involve three-fifths majority support. It is a matter of public attention to be paid to the course of this exercise as we are not confident, yet, that we will have the support of the Opposition in this enterprise, notwithstanding their failure to undertake any of the work that was required in the relevant period.

I thank you, Madam President.

**Sen. Mark:** Madam President, may I ask the hon. Attorney General whether he is aware that on the 7<sup>th</sup> of February 2018, on a news item coming from the European Parliament, that Trinidad and Tobago has been blacklisted as a money laundering nation? Are you aware of this?

**Hon. F. Al-Rawi:** Madam President, I am very loath to accept much of what is transported, displayed and alleged to be news, especially when it comes from the Opposition. I have just set out for the record that the reason that we are treated in the fashion that we are is a direct and complete failure and dereliction of duty on the part of the UNC, which has prejudiced Trinidad and Tobago, because they just

did not bother to do the work over the four years that it was required to be done. But they had the time, as they did in going to Berlin, to travel up and down without doing a shred of work.

So, I think that it is rather *infra dig* for the hon. Senator to be asking about things without reference to where this publication came from, who made it, what it actually says, whether it exists, what the text is supposed to really say, as opposed to what is said. And in those circumstances, I take no guidance or comfort from the matters raised by my learned colleague, Sen. Mark. [*Desk thumping*]

**Sen. Mark:** After those fulminations—[*Crosstalk*]

**Madam President:** Next question, Sen. Mark.

**Sen. Mark:** I am asking. I am asking. And I do not need any assistance from these people. I am addressing the hon. President, nobody else. [*Crosstalk*] The slave master, modern. But anyway, we got rid of you long time. Madam President, may I address you, please? The hon. Attorney General has asked for proof.

**Hon. Senators:** That is not a question.

**Sen. Mark:** Madam President, is the Attorney General aware that on the 7<sup>th</sup> of the 2<sup>nd</sup>, 2018, in a press release coming out of the European Parliament, Trinidad and Tobago has been added to the money laundering blacklist of countries? Is the Attorney General aware of this development? [*Desk thumping*] That is what I ask the Attorney General.

**Madam President:** Sen. Mark, that question was posed already. [*Crosstalk*] Do you have a new supplementary question? And before Sen. Mark poses his new supplementary question, I would ask for some silence in the Chamber. Continue, Sen. Mark.

**Sen. Mark:** Madam President, could I ask the hon. Attorney General, what can

Trinidad and Tobago do collectively to address those three elements that were outlined by the hon. Attorney General, to facilitate our becoming a normal country under the European arrangement? Can he advise us: What could be done to deal with these three elements?

**Madam President:** Sen. Mark, please. That question, the Attorney General gave a response and the response was given and that question was covered in the response. So can you ask another question, please?

**Sen. Mark:** Madam President, I would like to ask the Attorney General: Why has it taken so long for Trinidad and Tobago to address these critical elements that are supposed to be dealt with by the Parliament, in an effort to lift our country from that non-jurisdictional point that was raised by the hon. Attorney General a short while ago?

**Hon. F. Al-Rawi:** Thank you. Madam President, I am astounded that Sen. Mark could ask the last question. What took us so long? The United National Congress [*Desk thumping*] failed to do any work in the period 2011, 2012, 2013, 2014, 2015. Worse yet, it involved the negotiation of double taxation arrangements with 13 countries, similar to the arrangements done under the IGA for FATCA. None of the approaches were made. None of the work was done. It was a complete and absolute dereliction of duty, which has cost the taxpayers of this country, which has cost the banks to suffer correspondent banking losses, which has resulted in stock broking accounts coming under pressure. And I blame the UNC, in their various incarnations and labels, for putting the people of Trinidad and Tobago in this situation.

**Madam President:** Next question, Sen. Mark.

**Sen. Mark:** You should have told us which banks, man. [*Interruption*] Listen, slave master.

**Hon. F. Al-Rawi:** I object, Madam President.

**Madam President:** Please, please.

**Hon. F. Al-Rawi:** What does he mean by that?

**Sen. Mark:** “I ain address you doh.”

**Madam President:** Members, please. Sen. Mark, please put down your hand. Thank you.

**Sen. Mark:** I withdraw. I withdraw.

**Madam President:** Thank you very much.

**Sen. Mark:** I apologize.

**Madam President:** Thank you, and please as we proceed, question time is almost up. Please, let us do it in a manner that is in accordance with this Chamber. Sen. Mark. [*Crosstalk*]

**Sen. Mark:** I am seeking your protection from this modern—

**Madam President:** You will always have my protection, please pose your question. No. 99, Sen. Mark.

**Sen. Mark:** I am coming, Madam President. [*Crosstalk*] I am not dealing with a modern slave master.

**Madam President:** Sen. Mark, Sen. Mark, please. [*Crosstalk*] Members on the Government Bench, please allow Sen. Mark to pose his question, please. Sen. Mark, please also, I am saying to you. I am saying a lot of “please”. You all realize that, right? But Sen. Mark, do not make that comment again! Okay?

**Hon. F. Al-Rawi:** Madam President—[*Crosstalk*]

**Madam President:** Attorney General, no. [*Crosstalk*] Attorney General.

**Hon. Imbert:** Expunge that from the record.

**Hon. F. Al-Rawi:** That cannot stand on the record.

**Sen. Obika:** Total social infra dig.

**Madam President:** Sen. Mark, pose your next question.

**Road Conditions at Demarie Hill  
(Assistance Rendered)**

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

Given the recent protests by the residents of Demarie Hill, San Fernando, over worsening road conditions, what measures are being implemented to render assistance to this community?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Madam President, there is no public record of any area called Demarie Hill in San Fernando and, therefore, it is not possible to answer this question. Thank you, Madam President.

**Madam President:** Next question, Sen. Obika.

**Sen. Obika:** Thank you, Madam President. Question No. 119, to the—

**Madam President:** That question was deferred.

**Sen. Obika:** Sorry, question No. 120 to the new Minister of Sport and Youth Affairs.

**Madam President:** No, no, no, Sen. Obika.

**Sen. Obika:** To the Minister of Sport and Youth Affairs.

**Madam President:** Have a seat. Pose your question properly. Okay? We are in the Senate here. Pose your question properly. I will give you that opportunity.

**Sen. Obika:** Question No. 120 to the Minister of Sport and Youth Affairs, Madam President.

**Trinidad and Tobago Pro-League  
(Financial Support Provided)**

**120. Sen. Taharqa Obika** asked the hon. Minister of Sport and Youth Affairs:

Having regard to the call made by the coach of the national football team for financial support for the Trinidad and Tobago Pro-League, can the Minister indicate what, if any, support is being provided to the league by her Ministry?

**The Minister of Sport and Youth Affairs (Hon. Shamfa Cudjoe):** Thank you, Madam President. The Pro-League was established in 2002, following the collapse of the professional football administered by Trinidad and Tobago Football Federation. The league was intended to become self-financing but could not attract corporate sponsors because of the poor image of the administration of football over the years.

Accordingly, from 2004 to 2017, the Government, either directly from the Ministry of Sport, through the Sports Company, has funded the Pro-League to the tune of \$76.3 million. Notwithstanding, the failure of the Pro-League to become self-financing over the years, today the Cabinet approved funding for the period of 2018 to 2020 in the sum of \$11.1 million, [*Desk thumping*] with \$4.8 million to be disbursed in 2018. Thank you, Madam President.

**Sen. Obika:** Thank you, Madam President. Given this recent revelation and the fact that the league should have started shortly or should have started already, can the hon. Minister inform the Senate when will these funds be released to the Pro-League?

**Hon. S. Cudjoe:** Thank you, Madam President. I hope the Member is aware that the league is due to start a little later on this year, if I am not mistaken, in the month of June, and over the years the practice has been for the league to present to the Ministry of Sport its financial information, and the audited financials for the year 2017 have not been provided as yet. The Ministry of Sport has written to the Pro-League so that they could submit their financials, and this money is going to

be disbursed in time for Pro-League this year. Thank you, Madam President.

**Sen. Obika:** Thank you, Madam President. Notwithstanding the Minister's statement regarding the start of the league, is the Minister aware that our national icon, Dennis "Tallest" Lawrence, points to a disadvantage to the national team due to a weak league, due to lack of funding. So they cannot prepare during the pre-season preparation.

**Hon. S. Cudjoe:** Madam President, I am not even sure if the Member is sure of the question he wants to ask. The matter has been decided by Cabinet today for the funding to be provided for the league and when the financials are provided to the Ministry of Sport and the Sports Company, the funding is going to be provided to the Pro-League and we always call on corporate sponsors to provide assistance to our sporting fraternities in Trinidad and Tobago. And further, the Government offers incentives to encourage corporate sponsors to provide that support. [*Desk thumping*]

**Sen. Obika:** Thank you, Madam President. To allay the fears of our national coach—**Madam President:** Sen. Obika, can you ask your question please?

**Sen. Obika:** Thank you very much. I was just hearing some disturbances.

**Madam President:** No, no.

**Sen. Obika:** Can the Minister indicate, to allay the fears of the national coach Dennis "Tallest" Lawrence, has she taken into consideration the disadvantage the national team has suffered due to lack of funding?

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

## VALUATION OF LAND (AMDT.) BILL, 2018

[Third Day]

**Madam President:** Hon. Senators, the committee stage of the following Bill, which was adjourned on Friday, April 20, 2018, will be resumed:

A Bill to amend the Valuation of Land Act, Chap. 58:03.

The Senate shall now go into committee.

*Committee resumed.*

**Madam Chairman:** Hon. Senators, before we begin, is everyone in receipt of an amendment circulated on behalf of the Minister of Finance, that was circulated dated today's date, April 26, 2018? Is everyone in possession of that? Members, am I speaking to myself?

*[Assent indicated]*

Thank you very much.

*Clause 15 reintroduced.*

**Madam Chairman:** Members, when last we met we had deferred clause 15 for further consideration. I remind Members that Sen. Shrikissoon has a proposed amendment. Sen. Ramkissoon has a proposed amendment. Sen. Mark has a proposed amendment. And I think Sen. Mahabir, you withdrew your amendment. Yes.

**Mr. Imbert:** The Government is withdrawing any amendment that was placed before the Senate before, and the amendment that has been circulated in the name of the Minister of Finance is the Government's proposed amendment to clause 15 of the Bill and consequential amendments flowing therefrom.

15. A. In proposed section 25A, delete subsections (2) and (3) and substitute the following new subsections:

“(2) The Valuation Tribunal shall consist of-

(a) a Chairperson who shall be an attorney-at-law with at least ten years' experience as an attorney-at-law; and

(b) four other persons, appointed by the President,

two of whom shall have qualifications and experience in the valuation of property.

(3) The Chairperson of the Valuation Tribunal shall be appointed by the President on the advice of the Judicial and Legal Services Commission established under the Judicial and Legal Service Act.

(4) At any meeting of the Valuation Tribunal, a quorum is constituted if at least three members are present.”

B. In proposed section 25A, renumber subsection (4) as subsection (5).

C. Delete proposed section 25B and substitute the following new section

Suspension 25B. (1) The President in his discretion may or removal suspend the Chairperson of the Valuation Tribunal of a from office on the ground of misbehaviour or member of physical or mental incapacity or for cause.

the (2) The President may suspend a member of the Valuation Valuation Tribunal, other than the Chairperson Tribunal from office on the ground of misbehaviour or physical or mental incapacity or for cause.

(3) Where the Chairperson of the Valuation Tribunal becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit, he shall be removed by the President

acting in his own discretion.

(4) Where a member of the Valuation Tribunal, other than the Chairperson becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit, the President shall remove him from office.

- D. Delete proposed section 25C and substitute the following new section:

Resignation of member of the Valuation Tribunal may resign his office in writing of the delivered to the President.

Valuation  
Tribunal

(2) A member of the Valuation Tribunal other than the Chairperson may resign his office in writing delivered to the Chairperson.

- E. In proposed section 25D, in paragraph (c), delete all the words after the word “resigns”.
- F. In proposed section 25H delete paragraph (b) and renumber the paragraphs accordingly.

**Madam President:** Minister of Finance, can you therefore go through your proposed amendment?

**Mr. Imbert:** Certainly, Madam Chairman. Thank you very much. Madam

Chairman, and Members, hon. Senators, having considered the views expressed by Members of the Senate, we are proposing to make changes to clause 15.

The first fundamental change is the removal of the Minister as the person who appoints the members of the Valuation Tribunal, and we have substituted the Minister with two different entities, the President of the Republic and the President, meaning Cabinet.

If you look carefully at the amendment, we have also addressed the question of a quorum and whether three members were adequate to deal with work of this nature. A view was expressed that if there are three members of this tribunal and only two show up, would that really constitute proper decision making? So that the Government is now proposing that we expand the Valuation Tribunal to five and the quorum shall be three.

Following the model of the Tax Appeal Board, the members are appointed as follows: the Chairman and Vice-Chairman shall be an attorney-at-law of not less than 10 years' standing. The Chairman and Vice-Chairman shall be appointed by the President acting in accordance with the advice of the Judicial and Legal Service Commission. The members of the Appeal Board, other than the Chairman and Vice-Chairman, shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of or experience in law, commerce, finance, industry, accountancy, taxation and the valuation of property. So that is the status quo.

So following the status quo in our amendment, this five-member tribunal that we are proposing, the Chairperson or Chairman, as the case may be, shall be an attorney-at-law with at least 10 years' experience. So that mirrors the current Tax Appeal Board, and four other persons appointed by the President, two of whom shall have qualifications and experience in the valuation of property. And

that again, is similar to the current Tax Appeal Board. The Chairperson shall be appointed by the President on the advice of the Judicial and Legal Service Commission. And that again, is identical to the current Tax Appeal Board, which is the entity that deals with assessments of taxation or matters leading to an imposition of tax.

By way of information, I checked several of the similar tribunals and commissions that exist in law at this point in time, and for the benefit of hon. Senators, for example, the Fair Trading Commission, which deals with monopolies and makes provision for anti-monopoly measures, in that situation the Fair Trading Commission shall consist of not less than three, nor more than five appointed by the President. And in this Fair Trading Commission, the word “President” because it has no other words after it, such as “in consultation with the Prime Minister and the Leader of the Opposition, or on the advice of”, the learning is that once “the President” appears on its own, that means Cabinet, and the Instrument is in fact sent to the President by the Secretary to the Cabinet. So the Fair Trading Commission, all five, are appointed by the Cabinet.

The Regulated Industries Commission, again, not less than five, nor more than seven appointed by the President, again by the Cabinet. So the entire Regulated Industries Commission is appointment by the Cabinet.

The Environmental Management Commission, which is a commission that deals with appeals, with respect to environmental matters; a very, very, important commission, especially more so in Trinidad and Tobago today; again, all members are appointed by the Cabinet.

So that, what we are proposing here is consistent with existing law in many areas. I just gave a few examples here. The Industrial Court, for example, again a very important institution. All of the members of the Industrial Court are

appointed by the Cabinet, except for the President, and so on, but the ordinary members are appointed by the Cabinet.

So that we thought that we should follow precedent, existing practice. And I will give you the reason. The Valuation of Land Tribunal is intended to deal with assessments of the value of land that lead to the calculation of property tax that lead to the collection of revenue by the Government. And the collection of revenue by the Government goes to the core of the Government's function, and is profoundly connected to the management of the economy and the governance of the country.

In all of these commissions, tribunals, and so on, it was recognized that whereas there is no difficulty with giving the President of the Republic, who is not elected by popular vote but appointed by the Electoral College, or elected by the Electoral College, the President of the Republic does not face the polls. The actions of the President of the Republic cannot be normally challenged in a court of law but there have been challenges recently.

Whereas a Minister, for example, if a Minister or the Cabinet sought to appoint a member of one of these tribunals or boards that I have referred to, that appointment would be subject to judicial review. Ministers of the Cabinet are accountable to Parliament and are subject to judicial review. The President is not easily subject to judicial review.

So that if you sought to create, as I see has been proposed by some Members, a tribunal of this nature where every single person is appointed by the President in her discretion, you would take away that opportunity for persons to challenge the appointment by way of judicial review.

So we on this side, Madam Chairman, the Government feels very strongly. We have listened. We have removed the Minister entirely. We have put in the

Chairman being appointed by the President on the advice of the Judicial and Legal Service Commission and there is a reason for that; because the Chairman shall be an attorney.

We did not think it made much practical common sense for the other members to be appointed by the JLSC, on the advice of the JLSC, because the JLSC does not deal with valuations and property matters. So that we think we have covered all of the concerns raised, and we have come up with a formulation that there is ample President in law.

And I want to make the point there is established precedent and the Attorney General would help me with the case. It is not the Suratt case. There is another case, Paul Lai. [*Interruption*] I do not mind if you won the case—Madam Chairman, through you. I do not mind and I am sure you were paid very well for that.

**3.00 p.m.**

But in the Paul Lai matter the issue was if a tribunal is appointed by an entity that is not the President of the Republic or some such entity, how independent is this tribunal. What the Privy Council decided was that the appointment is not really the issue, it is how the tribunal functions afterwards. If you look in this law very carefully, the Minister cannot give any directions to the Valuation Tribunal. So even though the Cabinet—and the Attorney General is reminding me that this does not appear in other laws, that the Minister cannot give any direction or in any way try to influence the actions of the Valuation Tribunal. So the issue is not who appoints, per se, the issue is how do you remove them and how do they function, are they independent.

We have a system in this country—and I have experienced it personally, and I have no problem with talking about a personal experience—where in existing law

there was a particular board that was to be appointed by the Cabinet, but there were reasons for the removal. And if we look in this amendment there shall now be reasons for the removal of a member of this tribunal, such as misbehaviour, physical or mental incapacity, bankruptcy, et cetera.

There was a particular board—I would not say which board it was—but we sought to make a change coming in as a new government. We sought to reconstitute that board, and in particular the Chairman, and when we advised His Excellency that we needed to reconstitute this particular board, His Excellency said, “Well, what is the reason?” So we told him the reason, and it did fall within some of the categories of the normal reasons that you would want to remove somebody from a tribunal. But we had not put that in writing to His Excellency, and he said, well until you put that in writing he would not act on the advice of Cabinet with respect to the removal of this particular person from this particular board. Since we did not want to go down that road, we did not think it was sufficiently important in order to embarrass the person involved, we left the person there. So the President acted and said because this particular piece of legislation gives reasons for the removal of a person, and since you have not supplied evidence of your reason for the removal of the person, I will not remove the person, and we accepted that.

So that the point in these tribunals, it is not who appoints, it is how the tribunal functions, whether they are subject to interference and how persons can be removed. So we think that our formulation, chairperson, attorney-at-law appointed by the President on the advice of the Judicial and Legal Service Commission, and the other members appointed by the President, which means Cabinet, more than satisfies requirements of public policy. So I would ask hon. Members to accept our proposal.

If I can go to the second page of the amendment circulated and just read:

“The President in his discretion may suspend the Chairperson...on the ground of misbehaviour or physical or mental incapacity or for cause.

The President may suspend a member of the...Tribunal, other than the Chairperson”—same thing—“misbehaviour...physical or mental incapacity or for cause.

Where the”—Chairman—“becomes bankrupt, applies to take the benefit of any law for relief of bankrupt”—et cetera—“removed by the President acting in his own discretion.”

So again, that would be the President of the Republic:

“Where a member of the Valuation Tribunal, other than the Chairperson becomes bankrupt”—again—“the President shall remove him from office.”

So that will be the Cabinet. But again, the President of the day could, even if they are advised by Cabinet to remove a member, if the Cabinet does not produce the evidence that the person is bankrupt or is compounding with their creditors, the President can exercise the right not to follow the advice of Cabinet, and as I said I have actually experienced this particular situation.

Then the resignation—we give the members the opportunity to resign. The chairperson would resign to the President and the other members would resign to the Chairperson. There are some typos that we are dealing with in the proposed section 25H. We are taking out paragraph (b) which was a duplication as paragraph (a), and we introduced a confidentiality clause with a fine, if any confidential information that is submitted to this Valuation Tribunal is published.

I think that we have accommodated the views, and we are in accordance with public policy and general practice. I would like to commend this amendment to the Senate.

**Sen. Mark:** Madam Chair, I think we are in a worse position today than when we last met. This is a quasi-judicial body, and I cannot understand why politicians, in the manifestations of ministerial garments, would want to insist that they have a majority on a committee or a tribunal. So we have excised the Minister and we have now put his Cabinet, so the Cabinet will be doing the work of the Minister.

Madam Chair, we just got a judgment out of the High Court in which a Minister was accused by a judge of illegality. I am just drawing to your attention, and it is not even a judicial, it is not even a quasi-judicial body. So I am saying that here it is you have 700,000 properties, and you saw the invasive nature of the questions that you and I are being asked to supply to the Commissioner of Valuations. So here it is the politician, in a modern form of data mining, is seeking to get private and confidential information from 700,000 property owners, and then we are being asked here by the Government to trust them.

**Madam Chairman:** Sen. Mark—

**Sen. Mark:** Madam Chairman, you gave this Minister a lot of time. Give me some time please.

**Madam Chairman:** Here is the story. I gave the Minister time. That is completely within my purview. I am just asking you, as you have made your contribution, to just finish it off now please, because I think we have gotten the gist.

**Sen. Mark:** “No, but ah now start; ah now start.”

**Madam Chairman:** No Sen. Mark, other Members wish to make a contribution.

**Sen. Mark:** Why are you handcuffing us?

**Madam Chairman:** I am not handcuffing you, just make your contribution because you are starting to repeat what you are saying.

**Sen. Mark:** No, that might be a view; everybody has an opinion.

**Mr. Imbert:** You are challenging the President?

**Sen. Mark:** I am not challenging anybody. Madam Chairman, if you allow me to speak, because Parliament is "*parler*"—speak.

**Madam Chairman:** Sen. Mark, no, stop, stop right now please. Do not go down this path today, okay. Finish your contribution please, Sen. Mark.

**Sen. Mark:** If you allow me, I will.

**Madam Chairman:** Sen. Mark, I have invited you to, so do not—

**Sen. Mark:** Madam Chairman—

**Madam Chairman:** Sen. Mark, we are not having—Sen. Mark listen, Members. We are not having a tête-à-tête here. I am inviting you to finish your point on clause 15, the amendment as circulated on behalf of the Minister.

**Sen. Mark:** Madam Chairman, I am saying that what I am advising and advancing at the same time, that the Minister made references to the Fair Trading Commission. He made a reference to the Environmental Commission. We are on new territory. This is new territory, and as far as we are concerned we have given the Government a fair approach. We have said go to the Tax Appeal Board, go to that model. That model talks about a chairman and a vice-chairman.

The Minister this afternoon in addition to the three, has introduced two more, so he has now made it five. He has never said in his statement that one is going to be chairman and the other would be vice-chairman, and consistent with the model that they want to propose, you have a chairman and in the absence of a chairman you have a vice-chairman. So the vice-chairman of the Tax Appeal Board is appointed also by the Judicial and Legal Services Commission. But the Government is insisting that they only want one to be appointed and the next four to be at large. We know how political influences work, and we are not in favour of the arrangement that is being proposed by the Minister of Finance. So I will pause

with your leave at this time.

**Sen. Ramdeen:** Thank you, Madam Chair. Having heard the hon. Minister and having looked at the amendment that has been proposed, I have a few comments to make. Firstly, the Minister has justified the fact of the changes in the persons who will have the authority to appoint, by indicating that if the President in certain circumstances were to appoint the chairman, there is a limited power within the court to challenge the President in making that appointment. Therefore, the argument of the Minister is that if the appointment of the four other persons is made by the Cabinet, meaning the President acting on the advice of the Cabinet pursuant to section 80, it would give an opportunity for persons to challenge that decision.

Well, Madam Chairman, respectfully, and with the greatest respect to the Minister who I have great intellectual respect for, that does not hold any water in law, because our jurisprudence has reached the point where we have had examples all the way to the Privy Council in the Dumas judgment, where in a similar situation the Court of Appeal and the Privy Council have said that all of these appointments in these public positions are subject to the scrutiny of the court, whether made by the Cabinet, and in those cases where it was an appointment to the Police Service Commission, whether made by the President. So that saying that the justification of the Government is that you will be able to judicially review it, does not provide any additional ground as the jurisprudence presently stands to justify the change.

If the person is appointed by the President or the person is appointed by the Cabinet, the way in which our law has developed, it is on either of those appointments, any citizen, the Court of Appeal has said—any citizen—is entitled under the provisions of the preamble of the Constitution, they have a civic duty—it

is described by the Court of Appeal—to challenge that decision. So that that justification of the Minister I do not think is one that is properly grounded in law.

The Minister has made reference to a number of tribunals, and with respect to that approach to justifying the way in which these persons are to be appointed under this particular tribunal, while we can gain some kind of benefit from looking at the different tribunals that are the Tax Appeal Board, the Industrial Court and the Environmental Commission, it seems as though the approach of the Government is to look at how these different tribunals are appointed and to choose different aspects of them to comprise the present tribunal, the lawfulness of which we are debating. I do not think that that is the correct approach, because the only tribunal that has been subject in our jurisdiction—there are two that have been subject to judicial comment all the way to the Privy Council, is the Equal Opportunity Tribunal in *Suratt* and the Industrial Court in *Paul Lai* and *Sam Maharaj*. In neither of those judgments has the court specifically said this is the reason why we consider this to be the position.

In the equal opportunities case that went to the Privy Council, what you had is that examples were given of different ways in which the independence of the tribunal is secured. And when one looks at the judgment in *Suratt*, there are certain aspects of the Equal Opportunity Tribunal that are not present here.

**Madam Chairman:** So Sen. Ramdeen, can I ask you to therefore, yes—

**Sen. Ramdeen:** I will. So what I wish to say to the Minister is the Minister made a point that what the courts look at is not really the power to appoint but the way in which the tribunal works. That is perhaps partially correct, but the main judicial determination that we have had about these tribunals has been with respect to the Industrial Court. I would invite the Minister to look again at the *Paul Lai* judgment and to look again at the *Sam Maharaj* judgment, particularly the *Sam Maharaj*

judgment, and you would see the reason why that executive appointment has been justified by the court as being lawful, is not because of the manner, but it is because the court took into account the way in which the court has worked over time. Therefore, I do not think that the composition of the tribunal as we have it here is one that will pass the lawfulness test.

Now, I would ask the Minister one question, which is this, and I will wrap up on that: What is the difficulty in allowing these persons, all five of them, to be appointed by the President in her own discretion? Why does the Minister want to hold on to that power?

**Madam Chairman:** Thank you, Sen. Ramdeen. Any other—yes, Sen. Mahabir.

**Sen. Dr. Mahabir:** Thank you very much, Madam Chair. I had initially propose an amendment, which I withdrew, and I am now observing the Government's amendment to the same clause. I have two concerns; one, operationality and the second public trust operationality. Under clause 15 it states that:

“The Valuation Tribunal shall consist of—

a Chairperson who shall be an attorney-at-law with at least ten years' experience as an attorney-at-law;”

Straightforward, but it does not say that this attorney-at-law has any experience in valuation matters. He is a person with 10 years' experience as an attorney-at-law which is very wide. Then it comes down to subsection (4) which says:

“At any meeting of the Valuation Tribunal, a quorum is constituted if at least three members are present.”

So under (2) subsection (b) it says that the Minister proposes to appoint:

“...four...two of whom shall have qualifications and experience...”

The operational concern I have is this: since the quorum is three, we have a chairman who is appointed by the Judicial and Legal Service Commission,

attorney-at-law, but it is quite likely that with a quorum of three the two other members who constitute the quorum are also two other members who have no experience in valuation. So according to the construct here it is quite likely that a quorum will be established with a chairman, attorney in litigation, and two other members who are present. They form the quorum, and the two members who have experience in valuation are absent, and so we can have a full quorum with three people, none of whom with experience, and it is a concern to me for operationality.

What I would recommend for the hon. Minister to consider, is under 15 subclause (4):

At any meeting of the Valuation Tribunal a quorum is constituted if at least three members are present, one of whom has experience and qualifications in the valuation of property.

That will cover the concern that I have, that whenever the quorum is constituted there is at least one member in that quorum with experience in valuation. That is for public trust.

But the other concern I have, and I will not repeat because Sen. Ramdeen did advance the issue: what is the harm in saying, again for public confidence and trust, reason is, valuation is different from tax. The Tax Appeal Board members will be guided by the Income Tax Act and the Value Added Tax Act, and so. I am not surprised that two members there, chairman and vice-chairman, are appointed by the Judicial and Legal Service Commission. But this Valuation Tribunal is a completely new one where there is a greater level of subjectivity in the valuation of property. The market for property is incomplete. It is not as a perfect market. So I am wondering, for public confidence and trust, since we have had issues with valuation—you see, the concern of the public, Madam Chairman, is this—

**Madam Chairman:** I think the Minister understands your point.

**Sen. Dr. Mahabir:** So okay, the Minister understands. The concern that I have is, in order to create greater public trust in a tribunal which is dealing with matters of a greater subjective nature than the Tax Appeal Board, what is the harm—and I want to echo Sen. Ramdeen’s position—of simply saying in 15(2)(b), “in consultation with the Prime Minister and the Leader of the Opposition”.

**Madam Chairman:** Anybody else wishes to make a comment that is a little different from what has been said? Sen. Hosein, and then I will invite the Minister to respond.

**Sen. Hosein:** My issues are regarding the security of tenure and also the remuneration of the members of this tribunal. The Valuation Tribunal is, in effect, going to perform the function that was bestowed on the Tax Appeal Board, and we see that they were allowed sufficient protection in terms of their tenure and also their remuneration.

So my question to the Minister is that, who is going to be the one setting the remuneration of these members, and whether or not it can be unilaterally changed. And also, I do not see sufficient protection being given to the other members of the tribunal, notwithstanding that the amendment gives the grounds of misbehaviour, physical or mental incapacity or for cause. “Or for cause” is a very wide discretion on the part of the Cabinet because it is the President acting on basically—it is Cabinet that would be removing this member. So those are my concerns, Madam Chair.

**Mr. Imbert:** Thank you, Madam Chairman, and the Attorney General has indicated he would like to make a comment after, if that is okay with you.

**Madam Chairman:** It is fine.

**Mr. Imbert:** Sen. Ramdeen is an experienced lawyer, but in the case of Reginald Dumas that went to the Privy Council, all that was at stake was the interpretation

of the words “qualified and experienced”. In fact, if you look at the decision of the Privy Council in that matter, they did not in any way address and said they were not addressing the right of the President to make appointments, and also those parts of the Constitution which immunize the President from a lawsuit.

I will read from the decision of Lord Hodge in that particular case, which is the Attorney General v Dumas, because it went to the highest Court of Appeal. It was delivered on the 8<sup>th</sup> of May 2017, and Lord Hodge said:

This appeal raises an important question about the jurisdiction of the High Court to hear an application by a citizen, for the court to interpret the provision of the Constitution.

That particular provision, when you scroll down to the end of the decision of the Privy Council, what the Privy Council found and what the Privy Council ruled was that neither the Parliament nor the President has the power to interpret the Constitution. Only the High Court can interpret the Constitution. So that what was at stake there was the meaning of the words “qualified and experienced”. I just want to put that on the record. But it is not pleased to challenge the actions of the President. This is a novel case, but it is quite unique in its application.

With respect to the point made by Sen. Mahabir, the Tax Appeal Board, if you look in the parent Act, the Valuation of Land Act, you would see that appeals of valuations are currently determined by the Tax Appeal Board. So there is no difference with this tribunal, it is doing one of the things that the Tax Appeal Board—so the Tax Appeal Board does not just deal with matters of assessments of corporation tax, income tax and so on. It also is required under the current Valuation of Land Act to deal with the Tax Appeal Board.

What we are seeking to do, the Tax Appeal Board is overloaded. I do not know how many members here have had a matter before the Tax Appeal Board. I

see Sen. Small shaking his head. What happens in Trinidad and Tobago, because the Tax Appeal Board is so overwhelmed by the number of matters before it, is that quite often you get into the situation where your matter is there for years. I am sure the Attorney General could talk about matters that have been before the Tax Appeal Board for five years, six years, seven years and so on.

The purpose of a tribunal like this—this is not really new—this is an evolving law that has evolved over the last 20 years or so, where you try to create a panel, a tribunal. It is not a court, so you do not populate it only with lawyers. You try to reduce costs so that persons would not be required to hire senior counsel and so on, and you try to reach a resolution of the matter using experts in the field.

If the applicants are dissatisfied, well they have the recourse of the course, and then they have to go through the full gamut, High Court, Appeal Court and so on. But the rationale for something like this is to try to sort these matters out. In other jurisdictions, in the UK, for example, in the construction industry, you have an adjudication tribunal that deals with disputes in construction contracts. The experience has been that 90 per cent of the matters that go to that adjudication tribunal are settled by the tribunal. On 10 per cent move on to the High Court where you then have to hire persons like Sen. Ramdeen, and pay them a lot of money and so on, and then you find yourself in the court system.

So what we are trying to do here is to pull out from the Tax Appeal Board this matter, because as Sen. Mark has pointed out there are hundreds of thousands of properties. There will be hundreds of thousands of valuations. We have no idea how many of them will be objected to, might be a small number, but it would still add to the burden that already exists within the Tax Appeal Board. And we in the Government really have to look at that. That is another problem on its own in terms of trying to make the Tax Appeal Board more efficient, so that is why we

pulled it out.

But this is not intended to be a court. It is not intended to be populated only by lawyers and it is not intended to have all the features of a court. It is quasi-judicial, that is true, but it is not intended to be a court. If I can use an example of an actual court, the Family Court for example was designed to remove the adversarial nature of the court system and try to resolve matters by mediation. So there is no requirement for everybody inside of here to be a lawyer.

I have no objection to adding a few more qualifications to the members in here. If you look at the Tax Appeal Board for example you would see that the members of the Tax Appeal Board that are appointed by the Cabinet can be selected from among persons who have qualifications in accountancy, in property valuation and so on. So we could add a few more professions, instead of just saying, “two of the members shall be persons with qualifications and experience in property valuation”. We can say, “They shall be selected from among persons”, and we can list about four or five professions. By the way, when you do that it does not mean that everybody has to come from every single profession. It is just a pool of professions that you can choose from.

**Sen. Dr. Mahabir:** Minister, may I?

**Mr. Imbert:** Sure.

**Sen. Dr. Mahabir:** You see, I do not think that you need to go there, because my concern was that as long as in the quorum—and you did amend, so that at least two persons now must have the expertise which makes it possible to have a quorum, but as long as in the quorum there is someone with the expertise, because tribunals are necessarily expert in nature. You have to have dedicated expertise, and once there is at least one member in there with the experience in valuation to form the quorum together with the chairman, I think that will satisfy. Because you see the

chairperson, according to what it states here, is not necessarily the individual with the expertise.

**Mr. Imbert:** I wanted to address that point. When you appoint a judge all the person has to have is 10 years' experience and have a good record. But they do not have to be an expert in criminal law. They do not have to be an expert in corporate law. They do not have to be an expert in public law. When judges are selected you look at the person themselves, and you do not limit yourself to an attorney who has practised in a particular jurisdiction. I would not want to limit the experience of the attorney who is to be the chairman of this tribunal. I would not want to do that.

**Sen. Dr. Mahabir:** I agree with you, but the point is, when it comes to the quorum—

**Mr. Imbert:** No, we are coming to that. I just wanted to dispense with that particular point. We would have a discussion among ourselves, myself and the Attorney General. I personally have no issue with what you are recommending, but the Attorney General may have a different point of view, and he is speaking after me anyhow, in this session.

With respect to the point made by Sen. Ramdeen—Sen. Ramdeen, this is a democratic State. The Government is elected by popular vote. The Government is accountable to the people through the Parliament and at the polls and in the courts. You cannot emasculate the Government in terms of creating tribunals of this nature, and take away from the Government the ability to create tribunals to deal with the administration of the Government. We could go too much to one extreme. Over here you could say, "The Government is in complete control. The Minister is appointing everybody. Over here you could say the President appoints everybody, but you must have a mix, because we are, for the time being, on this side, are the

democratically elected Executive. There are three arms of the State. You have the Executive, the Judiciary and the Parliament.

**3.30 p.m.**

I have noticed a certain tendency in recent times to try to emasculate the democratically elected Government of the country and take away from the Government the ability to make decisions as to who should comprise tribunals of this nature, and that is why we firmly believe that there should be a mix. [*Desk thumping*]

And that is why in this amendment we say that the chairperson shall be appointed by the President on the advice of the JLSC, but we strongly believe that the other members, the Government should and must have some say in determining who is in this tribunal, because this deals with taxation. Taxation goes to the core of the functioning of the economy of Trinidad and Tobago, and to simply remove that function from the Government, I think that is completely impractical.

It sounds nice, it sounds that every tribunal, every commission everything should be appointed by the President in consultation or in his or her discretion, but it is not practical, because what you are doing you are undermining the entire fabric of our Republic the way it is constituted with the three arms of the State.

So, I respectfully cannot agree with your proposal that all of the members of this particular tribunal should be appointed by the President, because this is a matter of taxation, revenue the management of the economy.

**Madam Chairman:** Attorney General, there was something you wish to add?

**Mr. Al-Rawi:** Yes, please, Madam Chair. I propose to just make three specific responses to some of the submissions given. On the first hand Sen. Mark indicated that we were worse off today than previously. And Sen. Ramdeen made in summary a submission suggesting that all five persons should be the President's

discretion appointees. Sen. Mahabir has asked for one of the members to sit basically alongside the chairman.

It is imperative to clarify the positional stance in several of these tribunals and quasi-judicial and even courts of superior record, let us start with the Industrial Court.

The Industrial Court is a court of superior record. The Tax Appeal Board, let us deal with that as well. When you look to section 4, section 3 of the tax appeal establishment and the Industrial Court there is no limit to the persons that Cabinet can appoint in those bodies. It says the chairman, vice-chairman, but the vice-chairman in the Tax Appeal Board can be appointed from anyone, it does not have to be the two JLSC appointments. That is the first point.

Secondly, in the Industrial Court where they sit in divisions, you only have the president and one other in the Industrial Court appointed by the Judicial and Legal Service Commission. You can therefore, in law, dilute by way of Cabinet appointees in both of those institutions completely, there is no limit on the number of persons that you can appoint to either one of them.

Sen. Ramdeen knows very well as, I believe, he did appear in the Paul Lai matter as junior counsel to Mr. Martineau. That matter was a very good judgment coming out of the Court of Appeal and then Privy Council. There is also the Sam Maraj case and there is the Suratt case.

In Suratt considering the Equal Opportunity Commission and in the Sam Maraj and Paul Lai cases considering the Industrial Court, the courts were very careful to point out that courts of this type, i.e., specialist tribunals are necessary for the type of democracy that we have, embodying the very points that the Minister of Finance has put on the table: diminishing costs, ease of judgments, lack of formality in process, all of which are included as elements of the Bill

before us here.

It is a fact that the divisions of the Industrial Court can be comprised of persons who are pure Cabinet appointees, pure, and that is a court of superior record. And in a court of record such as that, the argument as to what is their security of tenure, what is the political coordination, how do you limit the Executive's influence, we have had Privy Council decisions telling us that there is nothing wrong in the composition of these courts because of the same reasons that the Minister of Finance put forward. It is the manner in which they operate, the due processing, and the fact that they are reviewable.

So to answer Sen. Hosein's position, the proposals of this Bill are in terms of security of tenure, exactly the same as the Tax Appeal Board, exactly the same.

Secondly, in the Tax Appeal Board and the Industrial Court they are of the same construction, JLSC and members.

Thirdly, in fact in the Tax Appeal Board and in the Industrial Court you may very well have non-lawyers sitting as members of the tribunals and sub-tribunals there. So this is well tested, it is a correct formula.

The last point that I wish to make, I want to remind that money Bills and taxation in particular is a prerogative of any elected Government, and it is so strong a prerogative that the Constitution of Trinidad and Tobago sets out that you only need to pass your appropriation Bill in the House of Representatives, not in the Senate. And that is because a Government having been elected by our constitutional process is entitled to raise revenue for the peace, order and good governance of our society. So we must be very careful to not swing the pendulum all the way.

And I will lay one last example. Look at what happened in the commission appointed to investigate and appoint a Commissioner of Police; pure presidential

appointees ended up in scandal.

**Madam Chairman:** Well—

**Mr. Al-Rawi:** I will remove that example there.

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** But under investigation, let us put it that way. So the point is, you have to be careful to understand what is my mischief, what is the balance to the mischief, what are the prerogatives. This Bill allows for JLSC chairman, members who are appropriately appointed by Cabinet, the Court of Appeal and Privy Council have blessed that formula, the Constitution recognizes the structure, there is due process appeal to the High Court and Court of Appeal. Before, it was only from the Tax Appeal Board to the Court of Appeal. It has rules of formality, and it is entirely relaxed as it should be in the courts of this type, and this in the round is properly supportable.

**Madam Chairman:** Sen. Small.

**Sen. Small:** Thank you, Madam Chairman. I have listened intently, I have been following this debate all along. I have a view, Madam Chair. I think we come here to do the work of the people of Trinidad and Tobago. The Bill came and I have seen the various—this is probably the third time that the AG's office has amended in response to the concerns. While I do not think that the amendment in front of us are prescribed exactly what everyone has asked for, I do not expect all the time to get exactly what we ask for. I think that the Government has demonstrated that they moved and they have been responsive to the concerns. They have not held a position and say that the policy position of the Government is this and that is the end of the story. That is a phrase that I am very familiar of hearing.

So, I think that the amendment here provides for insulation of the chairman.

I think that given the examples presented before us of other tribunals operating, it represents a formula that is not alien to Trinidad and Tobago. And given all of those considerations I think that this, what has been presented, in terms of this particular clause is something that I will be willing to support.

I also want to add, Madam Chair, if you will permit me, that I understand the question that has been asked: “What is the harm”? And I want to ask the flip of that. Is it that what has been proposed is all bad? So that I understand persons asking, what is the harm if we have everybody appointed in a particular way? And all I am saying is that when I look at it, is it that what is in front of us now completely, totally irrecoverably bad? I do not agree.

So, I think that it represents a compromise by the hon. Attorney General in trying to move this forward and responding to the concerns of all of the Members here. I think that what we have in front of us is something that is workable. Thank you, Madam Chairman.

**Madam Chairman:** Sen. Shrikissoon.

**Sen. Shrikissoon:** Thank you, Madam Chair. Madam Chair, I am just going to make a comment with respect to the amendment that I would have proposed with respect to this clause, where I proposed the use of the word, the “President”, where the President meant the President of the Republic of Trinidad and Tobago, that is the context of my amendment.

I have listened to the hon. Minister and as Sen. Small, I really want to thank the Government for entertaining the discussions and trying to come up with a very feasible solution to appease all which may be difficult, but at least the majority.

However, my concern at this point in time is that the hon. Minister indicated that there is a lot of work at the Tax Appeal Board and the purpose of the Valuation Tribunal may facilitate a more efficient way of addressing the

objections. And I am okay with that, I agree with that.

The problem that I am having is that, the way I see it is that our Constitution allows us the right to property, and as well as equality of treatment with respect to property. This particular Bill has significant impacts on one's property, and that is why I want to disagree a little bit with the Attorney General saying that this is limited to or has a monetary, or even the Minister, as a taxation element only, because it has implications with respect to one's property. And therefore, given the implications with one's property, I am a bit uncomfortable at this point in time where an objection with respect to one's property is at the sole discretion of a political appointee. That is my concern at this point to time.

**Mr. Imbert:** May I be allowed to answer?

**Madam Chairman:** Yes.

**Mr. Imbert:** Thank you very much. The fact of the matter is that the land and building taxes regime that operated in Trinidad and Tobago for 200 years or 100 years, the Tax Appeal Board was the appeals tribunal, and the Tax Appeal Board, most of the members appointed by the Government. So that is our history for 100 years, so this is not something revolutionary, this is the status quo. What we are trying to do is to assist and accommodate some of the concerns that have been raised.

But there is due process. The valuation of property, the assessment of property tax is something that has been with us for 200 years, and the adjudication of appeals with respect to valuations of property has been a system whereby you have a tribunal where the chairman is appointed by the President. Well this is very recent in the 1976 Constitution. Before that in 1962, all these commissions were appointed by the Government, you know. Trinidad has really evolved. Prior to '62, the Premier, the Prime Minister is the one who appointed the Public Service

Commission, Police Service Commission, et cetera, you know, so we have evolved. But we cannot evolve to a point where we go so far in one direction that we move away from the principles of a democratically-elected system. So it is not— we are not doing something that is so far a departure from the norm that has been in this country for years.

**Madam Chairman:** Sen. Shrikissoon.

**Sen. Shrikissoon:** Thank you, Madam Chair. And just the last comment with respect to it. And I understand the position, hon. Minister, and I accept. It is just that the concern of mine is that when you use the Tax Appeal Board, the Ministry is the division that is responsible for producing the valuation, and we are also now saying that the Ministry is also responsible for the appointment of members of the tribunal.

**Mr. Imbert:** No. No. No. The current Tax Appeal Board, the chairman is appointed by the President and other members of the Tax Appeal Board are appointed by the Cabinet currently, and that has been the norm for 100 years without limit, and that is an important point. We could populate if we wanted to, but we do not. We could put a 100 Cabinet appointees in the Tax Appeal Board and so diminish the influence and authority of the chairman, that the chairman will become impotent. [*Crosstalk*] Madam Chairman, I do not know why Sen. Mark keeps doing this.

**Madam Chairman:** Continue, Minister.

**Mr. Imbert:** But we have no intention of doing that, but I am just saying, that is the status quo right now. There is no limit to the number of members of the Tax Appeal Board that can be appointed by the Cabinet. In this particular case we are putting a limit, we are saying only four. Right now the Cabinet could appoint 40 people to the Tax Appeal Board, and it would be, using some of words of Sen.

Mark, “a far worse situation”. So this is an improvement on the status quo.

**Madam Chairman:** Sen. Ramdeen.

**Sen. Ramdeen:** Madam Chair, thank you very much. Hon. Minister, I consider you to be somebody who chooses their words very carefully and you just made reference to the fact that this must be done with due process, and you said this process guarantees due process.

**Mr. Imbert:** No. He said that.

**Sen. Ramdeen:** I do not know, I have heard it as a Member of this Senate over and over again, and I think it is very important for everyone one here. I do not know that as a Senator that we took an oath to uphold 90 per cent of the law or 90 per cent of the Constitution or 90 per cent to make everything, the majority of it must be right. It is a submission I have heard over and over. This is a matter of law, we must get it as best as we can, 100 per cent right.

The guarantee that—the distinction that you are making about the fact that is really about taxation, I want to respectfully disagree. I think Sen. Shrikissoon is correct. This is about the deprivation of property that under the Constitution must be done by due process. Due process has been defined as having two components. It must be judicial and it must be due, that is what the Privy Council said in *Thomas v Baptiste*. That is not what we are doing here, and the arguments that you are making which is that this has been done for 70 years and this is the way it is done, and that is why we can continue doing it, that is not a proper justification. And the argument that you buttressed all of this is that, we must give the Government a certain degree of latitude in doing these things. That too, I find it very difficult to understand, and I would just give you two examples of why. In Cooper and Balbosa—

**Madam Chairman:** Okay. But, Sen. Ramdeen, I think we have gotten the gist of

your comments. I do not think that we need to go into great detail with the different cases. Okay. So—

**Mr. Imbert:** I would like to briefly respond.

**Madam Chairman:** Yes. Just one second. So you want to just wrap up your point, please?

**Sen. Ramdeen:** Madam Chairman, this is a very important matter. I have to be able to say what the position is, and I cannot do so—

**Madam Chairman:** Yes. But you have said so, but I do not think, there is a tendency now in the Chamber for us to be going into great detail about judgments. So, I do not think it is necessary, I think you can summarize the judgments and make your point. Okay?

**Sen. Ramdeen:** With respect to the ministerial latitude that you spoke about, this Government fell into that same error when you tried to appoint a Commissioner of Police by letting the Minister do certain things pursuant to an order you brought to Parliament that was struck down by the court. If your reasoning is correct, it does not go, it does not mesh. In our jurisdiction we have a principle of political insulation. That goes against what you are saying about giving the Government the power to do all these things because it is the Government, because you have been elected. It does not operate like that. If that is the position, then we would not need to have a separation of powers, just let the Government run wild.

**Mr. Imbert:** Madam Chairman—

**Madam Chairman:** Minister—

**Mr. Imbert:**—I must object to the misrepresentation of what we are saying on this side, and the misrepresentation of the true facts. The fact of the matter is, the current or the status quo at this point in time is that valuations of property can be appealed to the Tax Appeal Board. If a person is not satisfied with the

determination made by the Tax Appeal Board, they go to the court; that is the current situation. That is the situation that has existed in Trinidad and Tobago for donkey's years. In our formulation, if a person is aggrieved with an assessment of the value of their property, they would appeal to the Valuation Tribunal, and if they are not satisfied with the determination by the Valuation Tribunal, they go to the court.

What is the composition of the Tax Appeal Board? It is chairman, vice-chairman appointed by the President, everybody else appointed by the Executive. What is the composition of this? Chairman appointed by the President, four other members recommended by the Government. This is a superior condition to what exists.

So it is a misrepresentation to say that this is not due process. A person can appeal currently to the Tax Appeal Board, and then they go to the court. In this situation, they appeal to the Valuation Tribunal and then they go to the court. The Tax Appeal Board composition and this composition, very similar, but this one, we have circumscribed it by limiting the number of members the Government can appoint, to four. Currently in the current dispensation, the Government can appoint 444 persons to the Tax Appeal Board. So this is a vastly superior system where the influence of the Government is far less than in the current tax appeal situation.

And just for the record to disabuse anyone who is listening of any notion that this will allow political interference which is what has been implied by Sen. Ramdeen, I will read the section on page 9, which is 25G (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.”

These words are very, very important.

**Madam Chairman:** Okay, Minister, I am going to—

**Mr. Imbert:** That is not in the Tax Appeal Board at this point in time.

**Madam Chairman:** Sen. Ramkissoon.

**Sen. Ramkissoon:** Thank you, Madam Chair. I am just seeking some clarification at this point in relation to the point that was raised by Sen. Mahabir in relation to the composition. We got the Minister's position, but I did not get it from the Attorney General if it was in agreement that we would be proposing?

**Madam Chairman:** No. No. If the Minister has spoken on the issue, there are only certain times when the Attorney General would come in.

**Sen. Ramkissoon:** Okay.

**Madam Chairman:** So you have heard the Minister's position. I do not think you now need to hear the Attorney General's position.

**Sen. Ramkissoon:** No. I just wanted to make sure, to understand if it was we are accepting the proposal of accepting “one of whom has experience in the valuation of the property”. That is what I wanted clarification on.

**Madam Chairman:** Minister.

**Mr. Imbert:** I can assist. I personally have no problem, but the Attorney General has raised an issue of a problem of a quorum, because if you have a meeting of the tribunal and the person with the valuation experience does not show up, you can have somebody challenging the decisions of tribunal. So whereas I on one hand say, okay, you will just have to make sure that the person with the valuation experience shows up, the Attorney General is making the point that it is going to create legal difficulties for us. And he is raising the point that there was a problem with the Police Complaints Authority where there was a problem with quorum and

that led to a legal challenge. So it is really, you know, a grey area.

**Madam Chairman:** Sen Mahabir.

**Sen. Dr. Mahabir:** Thank you very much, Madam Chair. And clarification, again. I understand the toing and froing with respect to having someone with the experience on the tribunal. But, Minister, you did compromise and indicated that there shall be two persons who shall have experience.

**Mr. Imbert:** Yes. Yes.

**Sen. Dr. Mahabir:** So, I do not see the issue of a quorum arising. But the concern that I have, hon. Minister, is this. At any meeting of the Valuation Tribunal a quorum is constituted if, at least, three members are present. Is it that the chairman has to be in the meeting for the quorum to be properly constituted or is it any three members, and when they appear, one of them can say, “Well I elect you as chairman and we will administer? Because you said that the tribunal can regular its own affairs. So, I am wondering, yeah, on clarification.

**Mr. Imbert:** The tribunal is not the tribunal chairman. Whereas it is desirable that you would want the chairman to be there because that is person who must have the 10 years’ experience. There are other forums, the Industrial Court and so on, where that is not a requirement—

**Sen. Dr. Mahabir:** Okay. But, hon. Minister—

**Mr. Imbert:**—and the Tax Appeal Board itself.

**Sen. Dr. Mahabir:** Right. But through you, Madam Chairman, hon. Minister, it is quite likely then we will get three persons, the chairman is not present, one of them will be nominated as chairman and it will defeat, you see, the separation that we are talking about, because the guarantee we have is that if the chairman is appointed by the JLSC and he is present to administer the affairs of the tribunal all the time, at least, there is one member who is immune from political influences.

But as it is now what 15(4) is reading is three of the members, four of whom are appointed by the Cabinet. Three of them can then run this tribunal and I am having some concerns with that now.

**Madam Chairman:** Minister before, and the Attorney General. Sen. Hosein, you wanted to make a different point or ask for clarification?

**Sen. Hosein:** Madam Chairman, I did not hear the Minister on the issue that I initially raised with respect to the remuneration of the members of the tribunal.

**Madam Chairman:** Yes. Minister.

**Mr. Imbert:** Today, we took a decision to put the sentencing commission under the purview of the Salaries Review Commission.

**Sen. Hosein:** Is it all members, Minister?

**Mr. Imbert:** Yes. So we will put this under the Salaries Review Commission. So, again, that gives it some independence there as well, the politicians will not be deciding the compensation package for the members of this tribunal.

**Mr. Al-Rawi:** And once this formula of words is used exactly as the Tax Appeal Board. That is exactly how it is done.

**Mr. Imbert:** That is what would be done.

**Sen. Hosein:** Would the chairman's salary come out of the Consolidated Fund?

**Mr. Imbert:** Everything will come out of the Consolidated Fund.

**Mr. Al-Rawi:** All charges on the Consolidated Fund are under law.

**Madam Chairman:** Sen. Ramdeen, you wanted to raise something? Yes.

**Sen. Ramdeen:** You made reference—

**Madam Chairman:** I just want to point, eh, Members, at some stage I will have to bring the deliberations on the proposed amendment to an end. At some point I will decide that there has been enough discussions on the clauses. Sen. Ramdeen.

**Sen. Ramdeen:** Thank you, Madam Chair. Hon. Minister, you made reference to

this section that says, “The Minister shall not give directions”. I am sorry that you were not hear on the last occasion, but I made a submission with respect to that on that last occasion which is, this is the first time that I, in my very limited experience in public law, have seen a section that prohibits a Minister from acting unlawfully. It is ridiculous, with the greatest of respect.

**Madam Chairman:** Sen. Ramdeen, please.

**Sen. Ramdeen:** Sorry.

**Madam Chairman:** Manage your words.

**Sen. Ramdeen:** Minister, I do not assume that you are going to ever act unlawfully. The whole basis of public law is that a Minister exercises their powers lawfully. So if it is that we are going to subscribe, right, that you are not going to give any direction to the tribunal, why do we not just put the whole gamut out? Let us put all the grounds for judicial review that you would not act unreasonably, in conflict with law and all these things. Without this clause that you have here, what protection is this going to give to anyone? If you act unlawfully, you will be judicially reviewed anyway?

**Madam Chairman:** Minister.

**Mr. Imbert:** This is to protect the country from another Minister.

**Sen. Ramdeen:** Another Minister?

**Mr. Imbert:** Yeah.

**Madam Chairman:** Sen. Richards.

**Sen. Richards:** Thank you, Madam Chair. Are we dealing with all the amendments as suggested by the Government?

**Mr. Imbert:** It is a page.

**Madam Chairman:** We are dealing with, yes, clause 15, just clause 15.

**Sen. Richards:** Oh, just clause 15. Okay. Thanks.

**Madam Chairman:** Yes.

**Sen. Richards:** I have an issue on clause 34. Sorry.

**Madam Chairman:** No. Just clause 15. Sen. Mark, you wanted to say something?

**Sen. Mark:** Yes. Madam Chair, you know, a true democrat never has a problem with allowing the sunshine of transparency, accountability, checks and balances to enter, you know, the environment that we are in or into their homes or into the Parliament. Madam, I hear my colleague keep saying about, the duplication almost a replica of what has happened at the Tax Appeal Board.

The Tax Appeal Board is a superior court of record. I think we need to know that, and even though you can appoint 30 and 40 people—the other thing that I want to ask, Madam Chair, because we want to ensure the insulation of these individuals, would the Minister be prepared to allow the chairman and the other members' salaries to become a direct charge on the public purse?

**Mr. Al-Rawi:** We just answered?

**Sen. Mark:** No. No. No. That is not in the amendments. So to answer it is one thing, Madam Chair, to have it in the law is another thing. So, I am asking, again, to insulate these people, make them more independent of the Minister of Finance and the Ministry of Finance or any future Minister. Would the Minister be prepared, Madam Chair, to look at this whole question of a direct charge of their emoluments on the public purse? That is what I would like to ask him.

**Mr. Imbert:** Madam Chairman, as far as I know, the salary of judges is a direct charge, I believe the President's salary is a direct charge, my salary is not, and there are many other tribunals, commissions and agencies and departments that—the Tax Appeal Board, for example—the salaries of the members of that board are not a direct charge. I would not want to agree to that without careful consideration.

So, I am sorry, I cannot agree to that at this time.

**Sen. Mark:** But you know the chairman and the vice-chairman of the Tax Appeal Board, their salaries and emoluments are direct charges.

**Mr. Imbert:** Oh really? Where is that?

**Sen. Mark:** It is in the law. It is there.

**Mr. Imbert:** If you can show it to me.

**Sen. Mark:** Yeah. Yeah.

**Mr. Imbert:** If you can show it to me, I have no problem.

**Sen. Mark:** All right. I will get it and pass it on to him.

**Mr. Al-Rawi:** I am reading section 4, it is not there.

**Sen. Mark:** It is there.

**Madam Chairman:** Sen. Shrikissoon, just some housekeeping. Are you pursuing your—

**Sen. Shrikissoon:** Madam Chair, I still remain a little bit uncomfortable, but in the interest of the work before us, I will withdraw it.

*Amendment [Sen. T. Shrikissoon] withdrawn.*

**4.00 p.m.**

**Madam Chairman:** We therefore we still have Sen. Mark's, and Sen. Ramkissoon introduced an amendment to clause 15, which deals with subsequent parts of clause 15.

**Sen. Mark:** Yes, it is section 5, hon. Minister. Section 5.

**Sen. Chote SC:** Madam Chairman, may I just make an enquiry? I thought we had gone through Sen. Ramkissoon's proposed amendment on the last occasion?

**Madam Chairman:** Yes, and there was a further amendment to her amendment which I have recorded. I just want before we start dealing with all the amendments to ask her to just run through it one more time. The Minister is here, so that we can

just formalize everything before we start putting the sections to a vote.

**Sen. Chote SC:** Yes. Certainly, thank you.

**Madam Chairman:** Minister, yes.

**Mr. Imbert:** In the case of the chairman of the Tax Appeal Board, that person is equated to a Judge of the High Court, and that is why decisions of the Tax Appeal Board are appealed to the Court of Appeal. This tribunal is of a lower level and decisions of this tribunal may appeal to the High Court. So you cannot equate the chairman of this tribunal to a judge and make their emoluments a charge on Consolidated Fund. That is why I need to look at your proposal very carefully, because it is not as simple as it appears on the surface. These things are not the same. We are creating a dispute resolution tribunal which is appealable to the High Court. It is not a court of superior record that it goes to the Court of Appeal. It is not the same thing. It is a slightly lower level.

**Sen. Mark:** Madam, Chair, through you, could the hon. Minister indicate whether the Government has made an estimation of what it would cost to establish this new tribunal and to populate it?

**Mr. Imbert:** No, we have not, but we consider it so important that whatever reasonable cost are required we will undertake to bear them.

**Sen. Mark:** But do you not think it might have been more feasible to expand the Tax Appeal Board?

**Mr. Imbert:** No. It is just like the Magistrates' Court with a ticket offence, a traffic offence. If you have ever been to the Magistrates' Court, Sen. Mark, you would see the number of matters that are adjourned. Magistrates spend most of their time adjourning multiple matters before they get to weighty matters. If you throw this into the Tax Appeal Board in the milieu, in the mass of appeals inside of there, it gets lost inside of there, and this is why—

**Mr. Al-Rawi:** Appeals by the billions.

**Mr. Imbert:** And yes, there are weighty appeals before the tax appeal court, and the hundreds of millions of dollars and so on that consume the intellectual capacity of that court and its resources. So, we do not think it is a good idea to continue to burden the Tax Appeal Board with these matters. That is why we are creating—

**Madam Chairman:** Sen. Ramkissoon, on the last occasion there was an amendment circulated on your behalf, which was further amended, which you sought leave to further amend. At that time the Minister had indicated that she was not minded to accede to that recommendation, are you pursuing your amendment?

**Sen. Ramkissoon:** So, the Minister accepted it after it was further amended? Is that what you are saying?

**Madam Chairman:** No, I am not saying that. I am saying—are you pursuing your amendment?

**Sen. Ramkissoon:** Yes, Madam Chairman. I was of the understanding that she did accept the further amended clause, because it went on to add the section (b) which was 25B and 25D. So, it was accepted and it was further amended and accepted.

**Madam Chairman:** Sure. Hon. Minister, there is a proposed amendment by Sen. Ramkissoon to clause 15, I would ask you to respond to it. You can get a copy, but let me just read it to you:

In the proposed section 25A insert the following new subsection after subsection (4) —

Where the term of office of a member has expired he may with the permission of the President, acting on the advice of the Chairperson, continue in office for such a period of time after the expiry of his term as may be necessary to do anything in relation to the completion of

proceedings that will commence before the tribunal before his term of office expires.

**Madam Chairman:** Sen. Ramkissoon, can you just put forward the basis of your proposed amendment?

**Sen. Ramkissoon:** It was to allow continuation of members who had reviewed a case, and because we are allowing members to only serve a staggered three years, if their case has started they would be allowed to continue until that case has been closed.

**Mr. Imbert:** It is a novel provision.

**Sen. Ramkissoon:** It also exists in our present day legislation in Trinidad and Tobago for an existing tribunal that we have.

**Mr. Imbert:** Which one is that?

**Sen. Ramkissoon:** That is the Equal Opportunity Tribunal, and it is there enshrined in the legislation.

**Mr. Imbert:** I do not know. I mean, in the judicial system, in fact this is something that has been ventilated recently, the question of continuation or resuming matters. This is a matter of great public importance. Again, it is a very novel proposal, but I would not want to just do it on the fly just like that. I understand where you are coming from.

**Sen. Ramkissoon:** Hon. Minister, the exact wording from the Equal Opportunity Act, which was accented to in, 2010 or 2000? I believe it was 2010 or 2000. It was assented to, I think it was 2000, but anyway, the direct words from that Act were:

“Notwithstanding...”—as a member—“term of office has expired...with the permission of the President acting on the advice of the”—Chairperson—  
“continue in office for such a period after the expiry of his term as may be

necessary to do anything in relation to the completion of proceedings that were commenced before the Tribunal before his term of office expired.”

And the Minister in the Ministry of Finance further amended that, and that is what Madam Chair read out to you whereby changing the first line which says:

Where the term of the office of a member has expired, then he may—

So, I did not think it was a fly by night proposal to accept.

**Mr. Imbert:** The little difficulty I am having is that then you would have more than five people—

**Sen. Ramkissoon:** Yes.

**Mr. Imbert:**—in the tribunal. This is a problem that is faced by the Judiciary right now, and I mean when judges are approaching retirement age they are required to complete the matters that are before them, and one would expect that a member of this tribunal as well would not take on any new matters at some period in time before the expiration of their term, like six months before, or something like that. I understand what the hon. Senator is proposing, but I think it complicates the issue, because then we would have to have some amendments to some other clauses, because the tribunal is five. So that if you have somebody whose term has expired but they are dealing with something then you will have six. You may have seven. You could have 10. Because all of the members could be involved in matters. So, I would like some. I give an undertaking I would like some more time to look at this, and I give a firm undertaking that if we can find a form of words to deal with this problem I will return to the Parliament with an appropriate amendment. I just see this may create more problems than it solves. That is just how I see it.

**Sen. Ramkissoon:** Okay, my one question is: Before it was three members and in the provision it was that it would be staggered, so now that we have five members, these five members would also be staggered, is that so?

**Mr. Imbert:** No, they are all having the same.

**Sen. Ramkissoon:** Three years.

**Mr. Imbert:** Yes.

**Sen. Ramkissoon:** Same start date, same end date?

**Mr. Imbert:** Yes. And again, if you stagger people that will automatically create the—Sen. Ramkissoon, if we did that, if we staggered them that would create the problem that you are trying to solve. Because some people would go out while some people are assigned there and then you would have part-heard matters. I think, really, these things have to be managed by the chairman and by the tribunal itself that they do not engage in deliberations on new matters close to the expiry of the term.

As I said, the Judiciary faces that exact problem, and that is one of the big matters engaging the attention of the courts right now. I do not want to talk about it too much. I do not want to express an opinion, because I might be out of order if I do that. But I am just saying, it is a matter that is engaging the highest courts at this point in time. What do you do when a person has not completed hearing matters and their appointment comes to an end? What happens? Does somebody else continue? Or do you have to start all over from the beginning? So, I would not want to do this just so. I need to be advised. I need to get senior counsel advice and then I will come back to—I give an undertaking I would come back, if I can find a formulation.

**Sen. Ramkissoon:** Madam Chair, just one more thing? Thank you for that undertaking. I do have a concern, because during the debate, you were not here at the last occasion, or fortunately, and it did come up about the time period, the three years. Now that we have these five persons serving at three years, are we looking to extend that three years now to five years?

**Mr. Imbert:** No, I think three is appropriate. I think so.

**Madam Chairman:** Hon. Senators, at this stage I am now going to ask for everyone to pay some attention. Sen. Ramkissoon.

**Sen. Ramkissoon:** Madam Chair, so is part B also not accepted? Because it was amended that in proposed section 25F—I had F, but the Minister had asked that it be corrected to D?

**Madam Chairman:** Yes, Minister, with respect to the second part of Sen. Ramkissoon's amendment?

**Mr. Imbert:** The other thing with that is that that is grounds for removal of a member. Because if you look at the parent, the Tax Appeal Board, and if you look at this as well, that:

The Minister may suspend the member of the tribunal from office on the ground of misbehaviour or physical or mental incapacity.

So, if somebody cannot perform their functions that is a ground to remove them. So, I do not think it is necessary. That is the point I am making.

**Sen. Ramkissoon:** So, ill means physical or mental?

**Mr. Imbert:** Yes. If you are ill to the point that you cannot function, that is a physical incapacity. Yes, that is so.

**Sen. Ramkissoon:** As a Senator we are also ill?

**Mr. Imbert:** That is so. That is so.

**Sen. Ramkissoon:** All right.

**Madam Chairman:** Hon. Senators, we will deal first with the amendment as circulated by Sen. Mark.

Hon. Senators, the question is that clause 15 be amended as circulated by Sen. Mark.

*Question, on amendment [Sen. W. Mark] put and negatived.*

**Madam Chairman:** Sen. Ramkissoon, are you pursuing your amendment?

**Sen. Ramkissoon:** Yes.

**Madam Chairman:** You want a vote on it?

**Sen. Ramkissoon:** Yes.

**Madam Chairman:** Hon. Senators, the question is that clause 15 be amended as circulated by Sen. Ramkissoon and further amended to read as follows:

25A (5) Where the term of office of a member has expired, he may with the permission of the President acting on the advice of the chairperson continue in office for such a period after the expiry of his term as may be necessary, to do anything in relation to the completion of proceedings that will commence before the tribunal, before his term of office expires;

(b) In the proposed section 25D, insert after the words, “25D” the word “(1)” and two, insert the following new subsection.

Am I reading that correctly, Sen. Ramkissoon?

**Sen. Ramkissoon:** Yes.

*Question, on amendment [Sen. M. Ramkissoon] put and negatived.*

**Madam Chairman:** Hon. Senators, the question is that clause 15 be amended as circulated by the Minister of Finance.

*Question put.*

**Sen. Mark:** No. We want a division on that.

*The Committee divided:           Ayes 20   Noes 6*

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Sinanan, R.

Moses, D.

Hosein, K.

Le Hunte, R.

Lester, Dr. H.

Singh, A.

Cummings, F.

De Freitas, N.

Dookie, D.

Huggins, R.

Lewis, Ms. A.

Roach, HRI

Small, D.

Ramkisson, Ms. M.

Chote SC, Ms. S.

Richards, P.

NOES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Ramdeen, G.

*The following Senators abstained:* Dr. D. Mahabir, T. Shrikisson and Ms. J. Raffoul.

**Madam Chairman:** The amendment to clause 15 has therefore been accepted.

[*Desk thumping*]

*Question agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*New clause 15.*

15 A. In proposed section 25A, delete subsections (2) and (3) and substitute the following new subsections:

(2) The Valuation Tribunal shall consist of—

(a) a Chairperson who shall be an attorney-at-law with at least ten years' experience as an attorney-at-law; and

(b) four other persons, appointed by the President, two of whom shall have qualifications and experience in the valuation of property.

(3) The Chairperson of the Valuation Tribunal shall be appointed by the President on the advice of the Judicial and Legal Services Commission established under the Judicial and Legal Service Act.

(4) At any meeting of the Valuation Tribunal, a quorum is constituted if at least three members are present.

*New Clause 15 read the first time.*

*Question proposed:* That new clause 15 be read a second time.

**Sen. Shrikissoon:** Thank you, Madam Chair. Through you, to the hon. Minister. The thinking behind this amendment is just to say that the legislation before us or the Bill before us provided for improvements, but given that the valuation is being done on property and equipment, more so, I am asking for consideration be given

if an asset property or equipment, or even a building becomes impaired, and are significantly so where it affects the valuation of the property.

**Mr. Imbert:** Now, valuation is distinct from the taxes.

**Sen. Shrikissoon:** Yes.

**Mr. Imbert:** That is a very important matter, but we have to think about that very carefully. A lot of business owners have indicated that they have property that they cannot rent, for example, but they would be called upon to pay the tax. So, a lot of representation has been made with respect to that issue as to whether the tax should be collected from an impaired asset. It is something we have to think about very, very carefully. I have been listening to what people have been saying, and we have not yet reached a decision on how we will treat with that kind of impaired assets. But, how does that relate to this Bill?

**Sen. Shrikissoon:** Well, through you, Madam Chair, it was in the context of, should the asset become impaired, and the owner of the asset is of the view it is impaired, the to give him an opportunity to inform the Commissioner of Valuations of the impairment under the conditions that the impairment is quite significant, and it is not a short-term impairment that will provide the evidence for such.

**Mr. Imbert:** But, you see, it does not affect the value. The value of the asset stands alone. But a property has a value. At a taxation, you see in the case of indigent persons or persons who are financially challenged, we have a legislation where the person can apply for a waiver of the tax, and they have to prove their case, you know, that they cannot afford it. That issue as far as I am concerned is more properly dealt with under the Property Tax Act rather than the valuation. Because, I think you are getting into very complicated territory if you try to value property based on considerations as to whether the business is a growing concern. In land acquisition, for example, there has been a lot of argument, but it has always

come down on one side that when you are acquiring property you deal with its pure value rather than the value to a person or the economic loss that they might suffer, because they had a business on the property, and the business was earning income. That is a very complicated area of law, so that in terms of valuations I think we better keep the valuation pure, but in terms of taxation or the imposition or collection of taxation, that is somewhere where consideration could be given to the point that you are raising.

**Mr. Al-Rawi:** Two points, Madam Chair. Number one, the valuations are cyclical, you can go up or down, and you have a process of intervening. And number two, if you start to introduce impairment, what about re-compensatory value. For instance, application of insurance, or lost, or other factors. Then you start getting into all sorts of complications as to the true validity of impairment and compensation, which may be external to the environment but not declared. So, I agree with the Minister that it is something to be considered very carefully, but more so on the property tax end of it, from the springboard basis.

**Mr. Imbert:** I am I think it is better to leave the valuation alone and not complicate it with considerations of economic loss, and deal with the taxation component in terms of collection of the tax. Someone can make a case that their asset is impaired, and make a case for a waiver or a reduction into tax. I think it is better to do it that way, better to consider it that way.

**Sen. Shrikissoon:** I thank you Minister, and I accept it.

**Mr. Imbert:** Because that is how land acquisition is done. That is the learning in land acquisition, okay, it is the pure value of the property that you are trying to get.

**Madam Chairman:** So, you are withdrawing? So, Sen. Shrikissoon has withdrawn his proposed amendment.

*Amendment [Sen. T. Shrikissoon] withdrawn.*

*New clause 18A.*

18A. The Act is amended by inserting after section 34 the following new section:

Confidentiality                      34A. (1) The Commissioner or any person duly authorized by him to receive information under this Act shall keep the information confidential and shall not share the information unless authorized under this Act or any other written law.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

*New clause 18A read the first time.*

**Mr. Imbert:** Oh, this is in the list of amendments. Oh, I am sorry. This clause is required to preserve the confidentiality of the information that a property owner might submit to the commission.

*Question proposed:* That new clause 18A be read a second time.

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Madam Chair, through you, to the Minister, do you think that this \$5,000 is adequate?

**Mr. Imbert:** You want to raise it?

**Sen. Mark:** No, I am asking you, because we are talking about confidentiality in terms of information.

**Mr. Imbert:** Madam Chair, I am trying to accommodate.

**Sen. Mark:** No, no, no. I am just asking you whether you think—

**Mr. Imbert:** If you want we can raise it. Suggest a figure?

**Sen. Mark:** I think it is something that, you know—

**Mr. Imbert:** Well, suggest a figure?

**Sen. Mark:** No, I am just throwing it out for Members' consideration.

**Mr. Imbert:** I "doh" have a figure, my figure is \$5,000.

**Madam Chairman:** Sen. Chote SC.

**Sen. Chote SC:** Well then, may I respectfully suggest a figure?

**Mr. Imbert:** Sure.

**Sen. Chote SC:** To \$25,000 instead.

**Mr. Imbert:** I will go with Sen. Chote's recommendation. [*Laughter*]

**Madam Chairman:** Sen. Richards.

**Sen. Richards:** My thoughts were also on the table, and in a question to the hon. Minister, through you, Madam Chair, in the clause, the commissioner, when the person duly authorized by him, is it envisioned by the Minister that this also covers the persons on the tribunal?

**Mr. Imbert:** No, this was the Commissioner of Valuations. Because, remember, the confidential information submitted first to the Commissioner of Valuations. Yes, the tribunal will have access to the information.

**Sen. Richards:** But should it not cover them also?

**Mr. Imbert:** You see, that is a part—I think that might even be public information. If you have a matter before a tribunal, unless it is sealed, I think that would be in the public domain, actually.

**Sen. Richards:** Okay, understood. And I also agree with Sen. Mark and Sen. Chote that given the value of properties being evaluated here, I think \$5,000 is not—we might sound draconian, but not even punitive enough to dissuade people from—

**Mr. Imbert:** No, well, Sen. Chote recommended \$25,000.

**Sen. Richards:** I agree with that.

**Mr. Imbert:** You say you okay with that?

**Sen. Richards:** Yes.

**Mr. Imbert:** Okay, thank you.

**Sen. Dr. Mahabir:** Okay. But, Madam Chair, could I come in here?

**Madam Chairman:** Just one second. Yes, Sen. Mahabir.

**Sen. Dr. Mahabir:** Thank you, Madam Chair. Madam Chair, the Minister as she piloted on the last day, indicated that the magistrate has some flexibility with respect to a person who fails wilfully to file the information form that is required, but the maximum is \$5,000. It appears—

**Mr. Imbert:** No, this is confidentiality. We are dealing with confidentiality.

**Sen. Dr. Mahabir:** Right I know, and I am linking it now to 18(1). It has to be we are simply pulling figures out, five, and 25, and 50. I do not know if maybe the AG can help us, whether there are other laws in Trinidad and Tobago in which there is a confidentiality clause, and that there is a penalty associated with it?

**Mr. Al-Rawi:** The reference is the Perjury Act, and it is \$15,000, if I recall, but there has been some amendments to it. So, usually the breaches of oaths of secrecy, et cetera, is by way of reference to perjury, and then you take it from there. So, we are not far off. Again, there is no true matrix in how offences come up. It is usually Parliament in its consideration and the signal it wishes to send.

**Mr. Imbert:** And the reason why I did not ask the hon. Senator to explain, Sen. Chote is an experienced senior counsel.

**Sen. Dr. Mahabir:** Thank you very much, hon. Minister—

**Mr. Imbert:** And this is within the range of penalties for confidentiality.

**Sen. Dr. Mahabir:**—it is just that perjury can refer to anyone, but this is where an officer of the State has information, and he has violated the confidentiality clause, and I think the penalty really should be around much more than the perjury. But if

the House is of the view that 25 is adequate, I will support that.

**Mr. Imbert:** I will stay with 25 for now, so I think we can always review. This is a summary offence, eh. This is not an indictable offence.

**Sen. Dr. Mahabir:** But it is not up to the magistrate that he or she can go up to 25?

**Mr. Imbert:** That would apply with the indictment.

**Sen. Dr. Mahabir:** Right.

**Mr. Imbert:** So, any number you put there that argument applies. So, it not really applicable when you say that there is a maximum sentence. It applies when it is a couple 10, “ah” thousand, “ah” million. You know, that argument applies to that.

**Madam Chairman:** Sen. Ramdeen, you wanted to raise—

**Sen. Ramdeen:** Could I just, if we are going to create the offence, should we not treat like with like, so that if you have an offence, the AG has referred to perjury, but whilst the Data Protection Act is not enforced in terms of the offences provision, can we not look at that with like with like, because that is an Act that protects information, and the confidentiality of information, and perhaps we can synchronize what we are doing here with what we pass there, and be able to come to some kind of agreement. I do not think it is useful for us to have different penalties for similar offences. So, it is just a suggestion that you may wish to take into consideration by looking at what the provisions are there, because I think they are quite higher. I think, AG, respectfully, I think perjury is a different category.

**Mr. Al-Rawi:** Understood, something along the lines of section 38 of the Data Protection Act around there?

**Sen. Ramdeen:** I think if I am not mistaken, I think it is summary there as well.

**Mr. Al-Rawi:** Yes.

**Mr. Imbert:** We could take two minutes and look at that, if you want? So,

section 38, you say?

*[Mr. Imbert confers with Mr. Al-Rawi]*

**Mr. Imbert:** Actually this is an offence. In the Data Protection Act what I am seeing is that the offence of disclosure falls under the general penalty within the Act. *[Crosstalk]* There is no number.

**Mr. Al-Rawi:** It would be down at the end.

**Mr. Imbert:** So it falls within the general—

**Sen. Ramdeen:** Yeah, but there are penalties prescribed later on?

**Mr. Imbert:** That is what I am saying, within the section with respect to disclosure there is no penalty. So, it would just be the penalty for a breach.

**Sen. Ramdeen:** Right, which is?

**Mr. Al-Rawi:** Ninety-five.

**Sen. Ramdeen:** Fifty. Fifty thousand?

**Mr. Imbert:** Fifty thousand, summary. It is indictable, it is a hundred, and if it is summary it is \$50. I have no problem with—

**Sen. Ramkissoon:** I am just saying like with like, it is up to you.

**4.30 p.m.**

**Mr. Imbert:** I have no problem with \$50,000. I have no problem. Sen. Ramdeen you have pushed an open door, you come inside—*[Laughter]*—so \$50,000—*[Laughter]*

**Madam Chairman:** Members, Members, how about I push this door now and put the question. So the question is that new clause 18A as further amended to read at sub(2):

“A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.”

*Question put and agreed to.*

*Question proposed:* That the new clause, as amended, be added to the Bill.

*Question put and agreed to.*

*New clause 18A, as amended, added to the Bill.*

**Madam Chairman:** Sen. Mark, may I just point out that on the list of amendments circulated by you, there is a new clause 21 listed in the column but nothing to set out what that is about.

**Sen. Mark:** Madam Chair, I understand, but what the intention was and it is not replicated there is you rightly stated, I was trying to get the Government, Minister of Finance, I had a deletion—a new clause rather, but the actual wording of it was not manifested because I am trying to get some help.

**Mr. Imbert:** May I assist you? When you look at the section of the Act that this is intended to apply to, the parent Act, it is a fee that the Commissioner of Valuations would charge—[*Crosstalk*] What about 16? You are not bothering with 16 anymore? I thought we are on 16.

**Madam Chairman:** Minister, we had cleared up all of those.

**Sen. Mark:** We have passed that.

**Madam Chairman:** We only had to deal with clause 15 and new clause 15.

**Mr. Imbert:** What! [*Crosstalk*]

**Madam Chairman:** What I am pointing out is that Sen. Mark circulated in his list of amendments a new clause 21 but there is nothing listed—

**Mr. Imbert:** Oh, he did not put any words.

**Madam Chairman:** Yes.

**Sen. Mark:** Yes. But I was just indicating to the Chairman, through your good self, the thinking, there is no written proposal.

**Mr. Imbert:** I cannot even object because there is nothing there.

**Madam President:** Well, just one second. I cannot even call it. [*Laughter*] So I

am just—

**Mr. Imbert:** I cannot object.

**Madam Chairman:**—giving you an opportunity Sen. Mark, can we just take this as being a typographical error and move on? [*Crosstalk*]

**Mr. Imbert:** It is blank.

**Sen. Mark:** It is blank but it is not a typographical. I think it was just a question of the assistance I was seeking, I did not get it, Madam Chairman, in terms of the actual drafting.

**Mr. Imbert:** It is almost past 4.30 p.m. Ma'am. [*Crosstalk*]

**Madam President:** So that I can now move to resume the Senate?

**Sen. Mark:** Well, you can resume.

**Madam Chairman:** Well, Sen. Mark, no.

**Mr. Imbert:** He has no proposal; Madam Chairman, he does not have a proposal before you.

**Sen. Mark:** No, no, I agree—

**Mr. Imbert:** He does not have a proposal. [*Crosstalk*]

**Madam Chairman:** So there is no new clause 21.

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

*Senate resumed.*

*Bill reported, with amendment.*

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

*The Senate divided:* Ayes 24                      Noes 6

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Le Hunte, Hon. R.

Henry, Dr. L.

Singh, A.

Cummings, F.

De Freitas, N.

Dookie, D.

Huggins, R.

Lewis, Ms. A.

Mahabir, Dr. D.

Roach, HRI

Small, D.

Shrikissoon, T.

Ramkissoon, Ms. M.

Chote SC, Ms. S.

Creese, S.

Raffoul, Ms. J.

Richards, P.

NOES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Ramdeen, G.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**Madam President:** Hon. Senators, at this stage I would suggest that we suspend and we will return at quarter past five, 5.15p.m.

**4.39 p.m.:** *Sitting suspended.*

**5.15 p.m.:** *Sitting resumed.*

### **PROPERTY TAX (AMDT.) BILL, 2018**

[Second Day]

**Madam President:** The Minister in the Ministry of Finance, Sen. The Hon. Allyson West spoke and was the mover of the Motion. Hon. Senators, on the last occasion the Minister had concluded the moving of the Motion and therefore I now propose the question for debate.

*Question proposed.*

**Sen. Wade Mark:** Thank you very much, Madam President. Madam President, this Bill entitled an Act to amend the Property Tax Act, is another attempt by the Government to raise revenue by any means necessary. And when we would have thought that we had cremated and buried this property tax back in 2010 with the defeat of the PNM under Patrick Manning, here we are in 2018 under the distinguished leadership of the Prime Minister resurrecting a measure that he himself—and I will extensively refer to his contribution when he was in the Opposition, when he himself the then Member of Parliament for Diego Martin West having been removed from the Cabinet, he was very, very, opposed to this measure [*Desk thumping*] that we are dealing with here today. [*Desk thumping*]

Now he has become the Prime Minister of this country, he is singing a different song, he is dancing to a different drum beat in this country at this time.

So here it is, Madam President, the same players, some of them new, but some of them very, very familiar, have brought this legislation to the Parliament once more and the mover of this Bill was particularly silent on a couple of issues. There was no mention whatsoever as to the purpose of the revenues that will be derived; where, for example, this revenue is going to be heading. Is it going into the Consolidated Fund or is it going to be part of the Local Government Reform that the Government has been touting about? Are we going to see a link between property tax and an increase in services in our communities? That was not mentioned.

Another area, Madam President, that the Minister who piloted this measure was completely silent on, was a surreptitious amendment in the committee stage in the other place when we were told in the original Bill and I have a copy here, Madam President, which was laid, that the Bill would take effect from the 30<sup>th</sup> of September, 2018, and the Minister of Finance in a very surreptitious manner in the committee stage amended it from the 30<sup>th</sup> of September, 2018, to the 30<sup>th</sup> of September, 2016. The hon. Minister who piloted this Bill had not mentioned a single word about this and how, Madam, this measure will impact on the ordinary working people of our country. No mention, but that is something I will have to address since the Minister failed to address that particular matter.

Madam President, another thing that we did not get from the Minister is what is the sum, what is the quantum of moneys [*Desk thumping*] that they expect to derive from this measure over a period of time? We got some nebulous figure of \$350 million or thereabout or just under half a billion dollars. And I want to dispute that because we have done our calculations and we are seeing it into the

billions, with all of the taxes that have to go to residential, commercial, industrial and agricultural. It is billions of dollars that they are going to derive from this measure. But you know what is critical, Madam President, who will bear the burden of this whole exercise? The ordinary working class man and woman. It is the working man; it is the middle class; it is the working poor that will be carrying the burden of this measure. And I will demonstrate to you how and why this is going to be realized, Madam President.

So, Madam President, let us understand that a tax is supposed to be very fair, it is supposed to be very transparent and it is not supposed to be discriminatory. And we are seeing in this property tax that the Government is in fact proposing in several amendments, measures that will not realize that particular objective. Madam President, I want to deal with this thing out front and early. Let us look at what our dear friend, the Prime Minister who now heads the Cabinet—What did the Prime Minister had to say about this tax? The Prime Minister said on the 18<sup>th</sup> of December, 2009, at 9.00 p.m. in the evening—

**Sen. Ramdeen:** Read it slow, eh.

**Sen. Mark:**—what his views, Madam President, were on this property tax.

**Sen. Ramdeen:** Read it slow.

**Sen. W. Mark:** And the hon. Prime Minister was very, very clear in terms of what this tax was supposed to do and what it was supposed to be about. The hon. Prime Minister talked about the punitive nature of this measure. He went on to indicate in this contribution that:

“...in the context of the local government reform and in the context of this attempt to do what this Bill says in the Preamble, that it is a paradigm shift – we would have taken the opportunity to really make that paradigm shift based on the Tobago House of Assembly model,”—and he went on to say—

“let people pay in their district, spend in their district and hold the people in the district accountable.”

And, Madam President, the then Member of Parliament for Diego Martin West went on to indicate why he was in favour of the property tax being directed at local government and having those funds directed and collected by local government authorities and he was using the Tobago House of Assembly model in order to demonstrate his position on this matter. And he was saying, wherever you talk and you look at property taxes there is a link between that and local government and decentralization. He went on to indicate, Madam President, in his contribution that—and I quote:

“Let us fast-forward a bit to September next year”—that was 2010, he was talking about—“and it turns out that this measure raises \$250 million or \$300 million, what will the Government say then? Will the Government say, ‘We were right, it was not meant to increase the tax take.’ You move from less than \$100 million to \$250 million.”

Madam President, at that time the land and building taxes was about 100 million. The Government was then proposing with the property tax it will go to 350million or thereabout. And the hon. Member was saying at that time, it will go between 250 million to 300. And he went on further to say:

“I do not like people to take me for a fool. I do not like people to try and fool me, I will have to fight back. We do not have long to wait. I guarantee you...I suspect that the 3 per cent will be on values that are considerably higher than it is made out to be, because even in the current market where there has been some decline in property values in this country—property here is very worthwhile and you would get good values for most properties...”

Madam President, the hon. Member was showing that the Government was saying that they would only get 100 million and the Member was saying, no, you are going to get between 200 and 300 million and he was making the point that the Government was fooling the country at that material time. He went on further, Madam President, to say, and I quote:

“...my constituents are angry and resentful of this tax because they have seen waste. I do not want to unnecessarily bash my colleagues. For heaven's sake, when you are coming to tax me in a situation where the item that draws the tax is not a revenue raising measure for me—my colleague for Tobago East pointed out that many people would be in a house and having done absolutely nothing, find that the house is worth \$1 million, \$2 million.”—and therefore—“Property value starts with location...”

Madam President, he goes on to say:

“Instead of getting an apology we get a spirited defence of the indefensible.”  
[*Desk thumping*]

And he goes on to say:

“When you make mistakes, the first thing you have to do is to acknowledge that you make a mistake. If you try to defend the indefensible”—Madam President—“you would provoke people and create resentment and anger. I think that that is what we have at the moment.”

That is what the then Member of Parliament for Diego Martin West, now Prime Minister, said in his contribution in the House of Representatives on the 18<sup>th</sup> of December, 2009, at around 9.00 p.m. in the evening.

Madam President, I raise these things to let you know that the hon. Member said that just like WASA sending bills to people and not supplying water, he was saying:

“Like this Bill if you do not pay they will take your property”—this—“is what some of my constituents are living with.”

So, Madam President, you have the former Member of Parliament coming in 2009 totally opposed to the measure that the then Patrick Manning introduced, that is the property tax and the other Bill and saying that he was totally opposed to that measure; the measure was going to hit his constituents very hard and therefore he will have none of it. He is saying that he does not mind the measure going forward but the moneys must not be put into the Consolidated Fund, it must be put into local government like—and he gave the example of the Tobago House of Assembly model.

Now, Madam President, I want to say that at no point in time were we informed rather that the Government is going to use the revenue from this property tax to deal with services affecting the people in their communities. No one has enlightened us on this matter as to where the money is going to be heading. I am putting it to the Government today that the moneys that are being collected under property tax will be ending up, Madam President, directly into the Consolidated Fund. That is where the moneys are going to be heading. And therefore, the waste and the absence of proper accountability is going to take manifestation after this particular arrival at that point. And somewhere in his contribution as well, the hon. Member made the point that \$100 increase in taxes or \$200 increase in taxes on an annual basis means a lot to his constituents, because they were struggling to make two ends meet.

So whilst many of us would say \$500 does not mean anything or means little or nothing and \$5,000 is a reasonable amount of money, what the then Leader, the Prime Minister, Member for Diego Martin West was saying, is that for his constituents \$100 increase in property tax more than they are paying, is a large, a

great amount of burden being placed on his constituents at the material time.

So, Madam President, we would like to ask the hon. Minister how is this tax, this property tax, how is it going to be translated into reality? How is it going to impact on the working man? We talked about residential properties in this country and we say, it is a 3 per cent application. But, Madam President, you know in this country many citizens have to rent. The owners of those properties are going to pass on those rents or those increases in property taxes onto those persons who are renting from them, the landlords and the tenants. The tenants are going to be asked to bear the burden.

And, Madam President, if you move from the residents who will have to pay for an increase in property tax and you go from this resident to the tenant and you realize that the landlord will pass on that cost to the tenant you now move to commercial. Commercial is 5 per cent and industrial is 6 per cent.

And, Madam President, if you take National Flour Mills as an example and you have to apply that 5 per cent on to National Flour Mills and you look at their equipment, their property, their lands and so on, and you apply a five to \$10million onto National Flour Mills to pay, let us say, industrial taxes, property taxes on an annual basis, Madam President, what will happen to Kiss bakery when they order flour from National Flour Mills? Not only is National Flour Mills going to increase the price of flour so that they could remain viable, but when they sell that flour to Kiss bakery who will now have to pay property tax, that is going to result in an increase in the prices of their output and their products to the ordinary people.

And, Madam President, I say these things to let you know that the Government is introducing a very draconian measure that has far reaching implications for the living standards, the livelihoods, the quality of life of the citizenry of our country. [*Desk thumping*]

**5.35 p.m.**

This property tax is going to result in the poor people becoming poorer and the rich people becoming richer under this regime. Madam President—

**Madam President:** Sen. Mark, if I could just point out something to you. We are debating the Property Tax (Amdt.) Bill and, therefore, I have allowed you a lot of leeway, but really, right now you have confined your contribution thus far to the Property Tax Act which is already in place. So I need you to address the Bill itself. Okay?

**Sen. W. Mark:** Thank you. I go to clause 23, with your guidance, immediately. Madam President, if you go to clause 23 of the Bill, which is called the Property Tax (Amdt.) Bill, what would you see? Let me tell you what is in the Bill that I have before me. The Bill which has been amended and has been brought to this honourable House says, Madam President, that:

“Section 52A of the Act is amended by deleting the words ‘31st December, 2015’ and substituting the words ‘30th September, 2018’.”

Madam President, I would like the Minister of Finance to explain to this country what is the value of the back taxes [*Desk thumping*] that we are going to be called upon as citizens, first of all people who own residences, the people who own commercial enterprises, the persons who have multi-dwelling units, the industrialists, the agriculturalists—we would like the Government to tell this Parliament, when you make this thing retroactive from the 30<sup>th</sup> of September, 2016—so it means to say 2016 to 2017, you have to pay back-dated taxes, and 2017 to 2018, 30<sup>th</sup> of September, we are called upon to pay back taxes. Madam President, if that is not the height of irresponsibility and almost—I “go to say” evil and wickedness on the part of any administration, I do not know what is. [*Desk thumping*]

Why would you want to impose on the population, Madam President, a retroactive payment, effective from the 30<sup>th</sup> of September, 2016? And you know what is even more alarming? When the original Bill, which I have before me, was tabled in the House of Representatives, you know what was the date under clause 23? The date for giving effect to this measure was the 30<sup>th</sup> of September, 2018. Why did the Minister of Finance, in the dead of night, decide to amend this particular section of the Property Tax (Amdt.) Bill and send us back retroactively to the 30<sup>th</sup> of September, 2016? I would like the Minister to answer that question.

Madam President, we are saying that this is a measure that is oppressive, it is draconian, [*Desk thumping*] it is unacceptable, it is obnoxious, it is indefensible, and we cannot support it and we call on the Government to withdraw this particular measure. [*Desk thumping*] Withdraw this measure. Let us go back to the original date which is the 30<sup>th</sup> of September, 2018, and make it effective from that day. Do not go back to that date of the 30<sup>th</sup> of September, 2016. So we are serving notice on the Government that we intend to pilot an amendment to that effect, where it will be back to 2018, 30<sup>th</sup> of September.

That is the first area of concern that we have with the legislation. We find it very, very unacceptable, indefensible, inexcusable and totally archaic and backward, and oppressive, and because they know they do not have a constitutional majority, they are doing whatever they wish. But I want to tell this Government, we have already indicated to them, you are dealing with property rights, and when you are dealing with property rights, there is a place and there is a time to settle these matters. If you do not settle it here, we will settle it elsewhere. [*Desk thumping*] You cannot take people for granted. You cannot continue to take advantage of people and believe that you could get away. You cannot. So we want to warn the Government about the approach that they are taking to property

tax.

Madam President, I am being guided by you, so I am going to the Bill. I go to clause 5(2) of the legislation. It reads:

“The liability to tax of the owner of any chattel fixed or affixed to land does not create a legal entitlement to the land upon which the chattel is located where the owner of the chattel is not the legal owner of the land.”

Madam President, this is just technical jargon. It simply means when you translate it, if you are a squatter living on a piece of property, you are not the legal owner—“I am taxing you. I am imposing a property tax on you.” But you know what? You are not the legal owner, but you have to pay the tax.

So what this measure is doing, Madam President, is saying, if you have 100,000 people in this country who are squatters, the Government is going to impose a property tax on 100,000 squatters, but the Government is saying, “You have no legal title, no legal ownership to the property. Pay your property tax.” That is what they are saying. And, Madam President, just remember, these people have to fill out a form and if they make a mistake in filling out that form, it could be interpreted as wilful. And, Madam President, you know what you end up with?—\$5,000 or you end up in jail.

So who are we targeting here? We are targeting the ordinary people who happen to be squatters in the system at this time. But we intend to regularize them as we move forward. We are going to be victorious at the next general election [*Desk thumping*] and we will regularize the squatters. We will give them ownership of their property. We are committed to a home-owning democracy [*Desk thumping*] in the Republic of Trinidad and Tobago. And we are not opposed to the—we recognize that you have to pay some form of tax. That is why we are in support of the land and building taxes arrangement, but it must be done in a more

modernized perspective. We want a more modernized approach. We know that the Lands and Building Taxes Act has been abolished. It was a 1920 version of colonialism and we know that we have to modernize the Property Tax Act. And this is what we were doing when we were there. We were moving to modernize the land tax, the property tax and the Lands and Building Taxes Act, and the Valuation of Land Act at that particular time. But, of course, we did not get to the point of revising and revolutionizing the process of the property tax in Trinidad and Tobago. But that certainly is on our agenda.

We have no intention whatsoever to proceed along the lines that the Government has moved as it relates to this property tax. We intend to revise and we intend to modernize the Property Tax Act along the lines that we said in our budget of 2014. We are going along the Lands and Building Taxes Act line and we are going to phase in the increases over a period of years and not immediately, as you have done. You have brought a Bill that says today, if it is passed, when you effect it, immediate effect, 3 per cent on residential, 5 per cent on commercial, 6 per cent on industrial, 1 per cent on agricultural. That is with immediate effect, Madam President. We are not in favour of that.

Madam President, we go on further to what is being proposed in this Bill. If we go to clause 9 of the Bill, again, we are seeing where the Government is creating a new taxation system. But the taxation system needs to be fair; it needs to be transparent. But what we have observed is the following: Madam President, if you go to clause 9(1A)(a), you realize that if you overpay the Board of Inland Revenue, they, within 60 days, are going to refund you such a payment. You are waiting 60 days, eh, Madam President, to get your repayment. However, if you are underpaid by the Board of Inland Revenue, it takes them 30 days. So if I overpay, I give you from my pocket, more. They tell you wait for 60 days. In the old Act it

was with immediate effect, forthwith you make my payment. But I could understand you are making the adjustment so that you do not want to go with “forthwith” so you want to go with a few days. But “yuh gone” with 60 days. And if you underpay me; 30 days. It just does not add up. Something is not fair. Something is not balanced in this arrangement.

Madam President, the Government has decided to brutalize pensioners—

**Madam President:** Sen. Mark, let us put that another way, please.

**Sen. W. Mark:** Well, they have decided to take advantage.

**Madam President:** Sen. Mark—

**Sen. W. Mark:** “Advantage” is not a good word, Ma’am?

**Madam President:** Sen. Mark, please, try and refine what you have to say, please.

**Sen. W. Mark:** I did not know in this court, this court, that language as I know it, is English and we speak English, and I know, Madam President—I am not querying or quibbling—

**Madam President:** Sen. Mark, so I am going to speak some English here and I am asking you, please, to dial back on the rhetoric and refine what you are saying. Okay?

**Sen. W. Mark:** What is rhetoric? I “doh” know what is rhetoric.

**Madam President:** Sen. Mark—[*Crosstalk*] Sen. Mark, you have a choice here. I can either ask you to abide by my ruling, or if you want me to provide you with a dictionary I would ask you to take your seat and you can come here and I will open the dictionary for you. Refine your language, please.

**Sen. W. Mark:** I will know what I have to do in the future. That is what I can tell this House.

**Hon. Senator:** You are threatening?

**Sen. W. Mark:** I am not threatening anybody, but I have a right to speak. [*Desk thumping*]

**Sen. Baptiste-Primus:** Oh gosh!

**Madam President:** Sen. Mark—

**Sen. W. Mark:** I will make my contribution.

**Madam President:** Sen. Mark—

**Sen. Baptiste-Primus:** No, man.

**Madam President:** This is the absolute last time I am going to warn you, and then I will have to determine how I proceed. Please take note of what I am saying and continue your contribution in a proper manner.

**Sen. W. Mark:** I thought I was.

**Madam President:** Sen. Mark, no. Sen. Mark, no. I have warned you repeatedly and I am therefore going to ask you to take your seat and I am now calling on the next speaker. [*Desk thumping*] Sen. Shrikissoon.

**Sen. Taurel Shrikissoon:** Thank you, Madam President, for recognizing me and allowing me to also take part to contribute in this debate at this time, [*Desk thumping*] which almost feels as cutting ice in this House because of the tension. [*Interruption*] Yes. I need to go back for a helmet. But, thank you, Madam President, and I appreciate the opportunity to share with my colleagues, at least my perspective on this Bill.

Madam President, we are referring to the Property Tax Bill, and before I get into the contents of the Bill I would just like to make a few comments around the Property Tax Bill. If I place this Property Tax Bill in context, especially in terms of the financial situation of our country, we have a situation where Government projects roughly \$37 billion in revenue and expenditure of \$50 billion, which leaves a deficit of just about \$13billion. So if we look at property tax as a method,

or a mechanism, of financing this deficit, of bringing it together so as to provide the Government with an additional source of revenue, then I can say that property tax—[*Crosstalk*]

**Madam President:** Members, please. Continue, Senator.

**Sen. T. Shrikissoon:** Thank you, Madam President. So with an expenditure of \$50 billion and a revenue position of \$37 billion, the concept of property tax to be able to provide additional financing to the Government in terms of financing that deficit, I think it has its place in terms of trying to balance the revenue position or improve the revenue position of the Government, so I accept that. But whether or not property tax should really be used for that purpose is another question. But I understand the financial situation of the Government with respect to property tax.

However, I would like to make a point and it may be a little bit controversial, but I do so very respectfully, Madam President. If we reflect on Sen. Rambharat's contribution to the budget debate of 2017/2018, he made a plea, and he said, you know, if it was possible to recoup any money from the Couva Roundabout to pave agricultural roads, it would have significantly helped him in his area of his Ministry. And I understand that. And then Sen. Ramdeen, in his contribution, responded to that comment and said—and I just want to paraphrase because I do not really want to quote directly out of the *Hansard*. He referred to, what about the \$300 million at the Petrotrin headquarters? What about the World GTL for \$3 billion? What about the \$1billion cost overruns in the Brian Lara stadium, of which the Attorney General also responded in his contribution and said, "But what about the \$1billion to SIS?"

What am I getting at here? If you look both sides of the political divide, both accuse each other of some element of mismanagement of public funds. [*Desk thumping*] And being able to identify what the other side has done or the other

political party has done is no real justification for what is being done by one party. So my point here is, both sides, both political parties here in this House, have recognized areas that expenditure may not have been done in the right way, and therefore, when this is done over time, it creates a burden. Because it has to be paid, you know. No matter how it is done, it has to be paid. A dollar revenue lost, or a dollar spent badly, has to be repaid. And that is why, sometimes we find ourselves in this tight cash crunch, because the balances or the cash balances of Trinidad and Tobago could have been better, or stronger, if there was proper management of funds across regimes. And, therefore, the incidence of the burden of the tax may not have been so necessary or important at this time, because of stronger balances—cash balances. But the fact and the reality of the situation is we do not have that and I am concerned about that.

So what makes the burden heavier is mismanagement or ill-expenditure, and the people of Trinidad and Tobago, through property tax, are now being asked to carry the burden, and that is the problem I have with the property tax. Because when it is being used as a financing mechanism, it could have been avoided if we had prudent management of funds, and that is why I bleed for the people of Trinidad and Tobago. Not that property tax does not have its place or it cannot be used for the development of Trinidad and Tobago, but the way in which it is being used now, at this point in time, in my mind, it is a little bit unfortunate, but I understand, but I would have preferred that that did not occur.

Some may argue that the incidence of property tax is not very large, and we have heard contributions and calculations being tossed around: \$1,000; \$1,500 a year which comes down to \$80, \$90, \$100 per month, whatever it may be. But when you analyze that additional tax burden and you are saying it is nominal, it is small—but when you analyze that additional tax burden against increases in

business levy, increases in Green Fund, increase in corporation tax, increase in corporation tax for commercial banks, increase on VAT for 10,000 items, increase in the cost of gasoline, increase in customs duties [*Desk thumping*] and against possible—a possibility of increases in T&TEC and WASA rates, my point here is this, the nominal value of the tax may be small, but the cumulative burden of the taxation is what is affecting the public. [*Desk thumping*]

Madam President, with respect to the revenue position of the Government—and I quote from the Estimates of Revenue of the Government Budget Statement 2017 and Budget Statement 2018. In 2017, \$500 million was budgeted as the income to be derived from property tax. In 2018, it is adjusted to \$250 million. I am asking the question: How did these figures—how would these figures be derived? How were they derived? And how could they find themselves in statements of revenue when the valuation roll has not been prepared, the assessment roll has not been prepared. The agencies have not been established, for example, the Valuation Tribunal.

So in my mind, we are anticipating, or expecting revenue off an incomplete process. The Bills have not even been passed, and the danger in that is that we are budgeting revenue and creating expenditure based on that revenue. So the problem is that it is a great possibility by anticipating revenue like this, and now having the Bills being so late being laid and probably passed or assented to so late on in the financial year, that the moneys derived, or to be derived, may not really be realized. And then we have a further deficit position like what happened in 2017 when we budgeted about—or we anticipated a \$7 billion deficit and we ended up with \$12 billion. The same may occur in 2018. I am unsure. And what is even worse, with respect to this anticipation of revenue—and I mean this very respectfully—is that we amended the Central Bank Act, I think it was, to increase

the overdraft from 15 per cent to 20 per cent of expected revenue. And therefore, when the revenue position is overstated or may not be achieved, then we have a little problem there to.

And finally, Madam President, I am touching on clauses just before I get into the actual Bill. The hon. Minister, in her piloting the Bill, referred very—did not spend too much time in addressing how the property tax and local government reform would have actually been linked. And if you allow me to quote from the Draft Paper on Local Government Reform—and I am quoting from page 27, it says:

“One of the major reasons given for the inability of Local Government bodies to deliver on their mandate to provide goods and services to the public, is the lack of adequate funding.”

Page 28 says:

“It is this Government’s desire through its stated policy that Municipal Corporations should have a secure source of funds in order to deliver goods and services to the public. Provision must be made for the reinstatement of the legislation of the Municipal Corporations that all the relevant revenue and taxation laws must be amended to allow for Local Government bodies to collect and retain property tax...”

But my point here, this may have been a good place to introduce some level of legislation, or some level of intent with respect to how property tax would be linked to local government reform. I did not really get that from the piloting. Sorry, Madam President, my last point before I get into the actual Bill brings me to Budget Statement 2018, and I would like the opportunity to quote from this, and it is on page 14 that says here:

“The Business Development Incentive Programme.

We believe that in order...”

This is Government’s budget statement:

“We believe that in order to survive and grow in this challenging new financial environment, we must learn from other countries that have been successful. Small businesses and medium sized businesses are the mainstay of Europe’s economy...”

It comes down to say:

“However, small businesses face a different range of problems than their larger counterparts, due to their inability to enjoy some of the same advantages in the marketplace. Most of these problems are due to revenue and cash-on-hand availability when the bills become due.”

The last paragraph says:

“Further, start-up companies and small businesses frequently run on small margins and may be profitable only so long as unplanned events never occur or capital investments are required to keep abreast of the competition, such as new equipment or new accommodation. In many cases, all a small business needs to expand or maintain its operations is relatively small amounts of seed capital to purchase”—new—“machinery, raw materials...”

What is my point, Madam President? The point here is this, that the Government in its budget statement indicated that the small and medium-sized sector would be critical to advancing the economy of Trinidad and Tobago. It is also saying that the economy of Trinidad and Tobago can be improved if the resources or the strategies are export driven. This export-driven strategy is being fuelled or supported by the small and medium-sized business sector, and the way in which export earnings or revenue could be earned is through manufacturing. Why am I making this link, this step-by-step link? Schedule 1 of the parent Act refers to the

percentage of the tax that is going to be applied to businesses or to properties: 3 per cent for residential; 5 per cent commercial; 6 per cent industrial. A commercial property is one that could probably be defined as one that people visit. An industrial property would be one where goods are being produced or stored, like a warehouse.

So what is the link between the point? How is it that we are trying to promote a sector, such as the small and medium-sized businesses, recognizing that manufacturing may be the way forward, but yet that is the same sector where we recognize in Budget 2018 is cash strapped. But that is the sector that has the highest incidence of taxation with respect to property tax: 6 six per cent—6 per cent on property, plant and equipment. That is the same sector we are trying to improve and push forward, and advocate that this is the way forward for Trinidad and Tobago, yet this is the sector that attracts the highest rate of property tax. I see goal incongruence with the intent of the strategy and the taxation policy. It is the same thing I would have said with the International Financial Centre having such a high—Trinidad having such high taxes for the financial sector and we are trying to build an international financial sector.

So I do propose that with respect to this element of property tax, especially for manufacturing firms, if the Government could consider incentivizing the companies that manufacture, especially if they are export driven, with probably a lower rate of tax on their plant and equipment. That is my recommendation with respect to property tax on that.

Madam President, now that I can focus squarely on the Bill in front of us here, I want to go to clause 3 of the Bill which seeks to introduce additional definitions of land from which revenue can be derived. This clause, I think, was also discussed on the Valuation of Land Bill and I did not see it as a problem there,

but I just noticed something here that I wish to comment on. Clause 2(a) says—or new subsection (2)(a), I should say, says:

“Where—

- (a) a building occupies 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 land;”

It was the same for the single dwelling accommodation and commercial dwelling. My area of concern here is that you have in (a) “a building occupies separately from other buildings”, so you have a plot of land where there is a house, and a father owns the house, and later on the son decides that he needs to build a home and the father says, “In the interim, you know what? You can build behind my home.” Then how will tax liability come to that owner who now has a single deed for a single property, but now there are two buildings? Is it that we are going to introduce property tax on two houses on the same property for which there is a single deed, or certificate of ownership? I ask that question.

And so, if it is that I am right, then can we consider amending the clause to state: “the tax liability would be limited to properties that would be registered on a single deed.” And if I could get that clause correctly, I would like to say: “A building occupies separately from other buildings, a location on a single parcel of land and has a separate deed or certificate of ownership.” So that it limits the taxation to properties that have legitimate certificates of ownership and not necessarily the number of building on a parcel of land, especially on small family arrangements, which is a significant part of the culture of Trinidad and Tobago.

**6.05 p.m.**

Sen. Mark, during his contribution, touched on one point that I want to agree with, and it says here in clause 4 of the Bill— clause 4 of the Bill says:

“There shall be raised, levied, collected by and paid to the Board for the year beginning 1st January, 2010 and for the 1st of January every of every subsequent year an annual tax in respect of all land.”

So I agree with that. I agree. In my mind the tax is an annual tax, January to December, and then the payment is within that year, but section 52A of the parent Act, I think clause 23 of the Bill before us says:

“Notwithstanding any written law to the contrary, the payment of any tax under this Act shall be waived for the period 1st January, 2010 to 31<sup>st</sup> December, 2015.”

Now, we are amending this to 30<sup>th</sup> September, 2016. My point here is this, if it is an annual tax then the exemption should run from January to December, not January to September. Although the tax is payable as at September, the exemption should run for the entire calendar year and not part thereof, because if it stops at September it is a possibility that it could be interpreted as there is a tax liability for the latter months from post September.

Clause 6 of the Bill refers to properties that will now be exempted from property tax. The Minister went into great detail in showing how this clause was tightening on the properties that would now be exempted, and I support the amendment that the hon. Minister piloted while she was here because I think that it lends strength to the legislation. So I think this clause 6 with the new amendments, I really welcome it and I think it has brought clarity to the exemption.

Clause 8, section 19, speaks of lands omitted from the assessment roll. It says here section 19 of the Act seeks to address when a new building has been erected on lands that have been previously assessed as land alone. There is a wording here that I would like to pay attention to, it says this clause seeks to prorate the tax—sorry, this clause seeks to prorate the tax liability according to

time.

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

So what it is saying here is that if there is a parcel of land that was assessed and a building has been erected, the tax will now be prorated from the number of months that existed before the building was erected and adjusted for the number of months post to the building being constructed. I am saying, construction of a building usually takes some element of time. So to come to a definitive place of using the word “erection” of the building before and after may be a little bit challenging. I am asking that we consider to use the word “completion” so that assessed tax would now be upon the number of months before completion of the house and then prorate it for the number of months post completion. Not erection of the house or the building as that can usually have a timeline associated with it and can sometimes span more than a year, depending on the size of the building.

The Valuation Roll and its life. Mr. Vice-President, section 19 of the Bill also speaks about lands being omitted from the assessment roll. It may be, and it says here:

“(1) Where land has been omitted from the Assessment Roll, it may at any time be added while the Assessment Roll is in operation and shall thereupon become liable for payment of the tax for the year within which such addition is made and also for the payment of any tax for the preceding period during which the Assessment Roll has been in operation.”

I understand the section. I think the section is a good section that says if it is omitted, then you just needed to look and see, apply the tax to it as well as retroactively, given the last date of the Assessment Roll. But the Act or the Bill before us does not really specify a life of the Assessment Roll. I think the

Valuation Act says as close as possible to five years, but this Bill and the parent Act—and I stand to be corrected—does not really have a life of the Assessment Roll.

**Hon. Imbert:** Every five years.

**Sen. T. Shrikissoon:** Every five years. I really did not see it, but may be—

**Hon. Imbert:** I will find it.

**Sen. T. Shrikissoon:** Sure, thank you. So that retroactively I was just proposing—given that I did not see it, hon. Minister, but I thank you—that the application of taxes for lands omitted should not extend over five years going backward. So that is the comment I wanted to make if I did not see it.

Mr. Vice-President, the deferral of tax, clause 12 of the Bill. Clause 12 of the Bill seeks to address section 23 of the Act, which deals with the deferral of payment of assessed taxes, the deferral of payment being made on the following grounds, impoverished conditions of the owner, the inability to improve his financial position, impaired health and that undue hardship to the owner would otherwise ensue, and it goes on to state the conditions that must be met. However, I would like to say that I would have preferred an exemption rather than a deferral, but I understand the Government's position. I just need to say that I would have preferred an exemption of the taxes where an exemption is being given, but it is taking on the form of a deferral. But I want to recommend for this clause that where a deferral is given, and we are seeing here that the clause is being introduced for two years that a certificate of deferral is given to the land owner.

Why do I recommend this? The certificate of deferral will have the time of the exemption, the period—whether it is one year or two years—the amount of the exemption, the property for which it is being assigned, and that certificate can be given to the owner, via post or anything like that, to justify his incident or liability

of the tax as well as be registered wherever the tax is being paid to show that the property has a tax deferral benefit for this period. In the event that records are lost that certificate can also be used to calculate the total deferred tax liability later on when it becomes due, and so I am asking for consideration for that.

Clause 13 of the Bill also refers to section 26 which pertains to the board revoking or varying a deferred tax benefit. The actual section says:

“(2) Before exercising its power under this section, the Board shall afford to the owner a reasonable opportunity to show cause why the authorisation should not be varied or revoked...”

Subsection (3) says:

“The board shall issue a notice in writing of any decision to grant or...revoke...”

I would like to strengthen this aspect of the law. I would like to suggest that a clause be added to this that says:

Where the deferred benefit was revoked.

That portion of the year for which the deferral is no longer covering, that the person is now liable for that tax. So at that period for which the revocation has occurred, the owner of the property is now liable for that tax and becomes due immediately.

Mr. Vice-President, clause 14 of the Bill seeks to amend section 27 which refers to the deferred tax benefit to cease upon death of the owner, and 27(1) says that the deferred benefit becomes immediately payable out of the estate of the deceased owner. I see a small challenge here because when someone dies their estate is not readily available for a successor. Usually, it has to go through a probate proceedings and that can be for a short time or a long time and, therefore, I am asking if the Government would consider that the tax liability on the property

be settled upon completion of probate proceedings rather than the death of the owner as there is a time gap there. Also sticking to the same arrangement or the same clause, where the probate proceedings extend more than one year, the tax liability will also be incurred by the successor. And so I am asking if the tax liability for the property during the years of probate become payable where the probate is granted, however, it should not attract any interest or penalties for the successor.

Section 27 of the Act speaks of the deferred tax benefit becoming due upon the death of the owner. Section 27(2) of the Act refers to where on the application of the successor in title of the estate, the board is satisfied having regard of the impoverished conditions of the successor in title of the estate of its inability to improve his financial position. What this section is really talking about is—27(1) there is a deferred tax benefit, 27(2) is saying the successor can benefit from applying to the board. In my mind, between 27(1) and 27(2) there is a small gap that does not say that upon the successor having gained title to the land he can apply to the board. Section 27(2) speaks of the board making a decision, 27(1) speaks about the deferred tax becoming due. So I am asking if consideration can be given to that aspect of it, so that there is a definite step that says, the successor can apply to the board.

Clause 18 of the Bill refers to section 34 of the Act where it says:

“...any amount of the tax is not paid on or before 15th of September...”

—and that date is now changed to the 30th of December.

It later on refers to a six-month extension where it comes down to the 16<sup>th</sup> of March. I am asking if the words “of the ensuing year” can be inserted there because there is some element of controversy, or not being specific in my mind, where we refer to the 30th of September and the 16<sup>th</sup> of March. It should be the

30<sup>th</sup> of September and 15<sup>th</sup> of March of the next ensuing year.

I thought that Sen. Mark would have raised one of these issues, but he did not. I know that this is a favourite of him and it came down to clause 24 which seeks to amend 53A of the Bill:

“The Minister may by Order, amend Schedules I and IV.”

And Schedule I having the tax liability to be assigned to the citizens of Trinidad and Tobago. I do believe that if the Schedule is there and has a tax rate that has to be applied to determine the tax that a citizen is liable to pay, an amendment to that Schedule should have or should be subject to the affirmative resolution of Parliament because it is a tax liability that will create a tax burden on the citizens.

And so, Mr. Vice-President, I am unsure of how much time I have, but I know I have made a couple points. So I will—*[Interruption]*

**Mr. Vice-President:** Till 6.29 p.m.

**Sen. T. Shrikissoon:** Thank you. So, I have some time. So, Mr. Vice-President, in order to try and pull this entire contribution together, I would like the opportunity to just bring it back and just summarize briefly what I have said before I think I have gone so widely into the Bill.

My first point here that I said earlier today, is that I have shown that a significant reason for the citizenry to pay property tax is as a result of some element of mismanagement across regimes in the past. There are allegations based on both sides of the House indicating where expenditure was ill appropriated, and that in itself is creating a burden on the people of Trinidad and Tobago. Property tax may have been able to be avoided if we had prudent management of expenditure.

Mr. Vice-President, I also said that while the incidence of the tax may be small in some cases, probably more so for residential properties, the cumulative

burden of increased taxations in the recent past will have a significant impact on the lifestyle and pockets of our citizenry. It is not just about the nominal value of the tax, but the cumulative effect.

With respect to recognition of revenue in the budget statements for 2017 and 2018, that has some implications for deficit financing as well as probably even obtaining debt to satisfy a deficit that has been created, because we have anticipated or budgeted revenue for which the process and institutions and the law, they have all been incomplete at this time. I ask the Government to consider that. I did make reference to local government where the draft policy on local government did indicate that there would be some element of property tax being linked to the development of municipal corporations. I did not get the intent of that at all in this Bill, nor the way in which it would be proposed.

I also said that this Property Tax Bill introduces a 6 per cent tax on industrial properties, industrial properties being classified as properties where goods are being produced. Budget statements of the Government did indicate that this sector is very critical to the advancement of Trinidad and Tobago. And so, I am saying 6 per cent on a small business that is manufacturing is very harsh, especially at a time where this is the sector we are looking to. I did ask for consideration with respect to the definition of "land" where it is restricted to only those that have certified or separate deeds of ownership and where there are multiple buildings. I did commend the Government for clause 6 with respect to the exemptions.

With respect to clause 8 of the Bill which refers to section 19 where lands are being omitted, the hon. Minister did say that it is five years. I am saying if you are setting taxes backward, there should be a maximum of five years retroactively, the year that it is incurred and four years backward. I have also asked for consideration to be given to clause 8 where lands were omitted. That was the

point, sorry. And then I have asked with respect to clause 23 where a deferred tax benefit is granted, a certificate of deferral be given to the owner. This will have significant administrative benefits in determining the tax liability in years to come, as well as proof and justification that an exemption or deferral was granted.

I have also asked with respect to section 27 which addresses properties where there is now a successor in title, I did propose that the deferment to cease upon the death of the owner, yes, but the tax deferred to be paid by the successor upon completion of probate proceedings. Any tax incurred after death of the owner but before the completion of probate proceedings to be incurred by the successor, but these taxes will not incur any interest and penalties. I did point out in section 27 that in my mind there is a missing step between the liability of the tax becoming due in 27(1) and the board granting a benefit if they are of the view the successor is unable to pay this deferral. So I have asked that a clause be inserted to state that:

Upon becoming the successor in title, if the owner is unable to pay the tax then he can apply to the board.

With respect to section 52A of the Act, with respect to amending the schedule of rates of taxation, I do ask for consideration that the rates of taxation, it is very important because that really hits at the heart of property tax, the percentage taxable value that this schedule be subjected to affirmative resolution of Parliament.

So, Mr. Vice-President, with those few words, I would like to say that the Property Tax Bill, I am seeing the relevance of it from a financing mechanism for the Government. Whether or not it should be used like that, I do not believe that. I think that some element of the Bill has been anticipated and somewhat rushed, having anticipated revenue and budgeted revenue in 2017 and 2018 when the

procedures, the law, the divisions have not really been established. And so, the Government has also been very cordial with respect to receiving amendments from the Independent Bench, and some of mine personally, as we make it across the floor, and they are very receptive in responding. So I do ask that the same would occur with respect to this Bill.

I thank you. Mr. Vice-President. [*Desk thumping*]

**The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte):** Mr. Vice-President, I am honoured once again to stand in this House to support a Bill that is long overdue, and now more necessary than ever. I want to thank the Independent Sen. Shrikissoon for his contribution, and rest assured as we have shown, that some of his legislative amendments that he is proposing I am sure that we will look at them. I am also glad to hear that you are least recognizing the fact of the financial position that we are in in light of the deficit. No one likes to impose taxes, but sometimes it is necessary based on the time. This Property Tax (Amdt.) Bill is this administration's attempt to modernize an outdated suite of legislation, to standardize the process that they govern and to ensure that they are implemented in an equitable and fair manner.

I would like to start by debunking the concept that the collection of property tax is a rare practice and an attempt by this Government to impose hardship on citizens, and in the process to rob them of their homes, or raise revenue by any means necessary as stated by Sen. Mark in his abrupt address. The fact is that contrary to what some of the rhetoric that we have been hearing about property tax, this is a very legitimate tax, this is a tax that is done not only here, we have had it. It is one that is necessary and it is one that is actually in most of the countries around the world. It is a very common tax. Actually, as I heard Sen. Paula Gopee-Scoon mentioned, in over 90 per cent of the countries in the world there is property

tax, and in some of these cases whether the countries were rich countries, whether they were poor countries, the fact is property tax is a legitimate tax. And as I said, it is over 177 countries in the world actually have that tax.

I would like to add that property tax is nothing new to Trinidad and Tobago. Previous generations would have paid some form of property tax for decades and because of subsequent changes to this suite of laws that govern the process and the age of these laws themselves, we now have a convoluted process that is now not equitable. For example, because the Valuation Roll has not been done for a while, there are property owners in wealthy areas who pay what I call peppercorn moneys in property tax, while persons in more recent developments pay more property tax on houses of less value. A property as we all know what exist in Trinidad—a property right now in Goodwood Park, for example, some of the more older areas will incur a much smaller tax than properties of less value in newer developments like Palmiste and Gulf View in South. Therefore, as we strive towards modernizing our society in all areas, we are required to modernize this system of collecting property taxes starting with this governing legislation and the amendments to this legislation as we are proposing.

Just Tuesday we spoke about modernizing the Parliament. This shift to greater efficiency and streamlining the process must happen across the board if we have to move into the 21<sup>st</sup> Century, and this legislation attempts to help us to do that in this particular essential area. A good example of how this is being done in this particular Bill, is the measures that are being imposed and how we are going to be looking at taxation of condominiums and townhouses which were prior to now, not being taxed.

So, Mr. Vice-President, as I said in my opening remarks, the Government's introduction of this tax does not have any sinister intent behind it. It is simply an

attempt to fix legislation that is on our books, modernize our country and bring our legislation and process in line with the other 176 countries around the world that use property tax; which brings me to second policy that I would like to address, the idea that once implemented the property tax will be burdensome and oppressive to the less fortunate in our society. And again, it seems like every time we speak about this, this is where we seem to want to go.

Mr. Vice-President, I would like to use some of my banking techniques, and I want to draw this House to some simple examples that I worked out regarding this whole idea of property tax to deal with that point as relates to how expensive and the burden that this tax is expected to be brought onto people. I take, for example, I looked at a property in Trinidad valued at around \$800,000 and I start with that for a particular reason, and based on that value, the projected rent I will apply to that house, or rental value, is approximately \$2,000 a month. So an \$800,000 house—and an \$800,000 house is a house that requires you to have an income of about \$8,450 to get a mortgage for it. You could have probably a security guard and a housekeeper working in MTS, that probably will be their joint income. Some of them go and they get a property, they could actually, based on the provisions that you have under the Home Mortgage Bank, and so forth, get a mortgage. The reality is that particular property with a rental value of \$2,000 a month will result in a property tax of approximately \$54 per month. Fifty-four dollars per month is the tax that we are talking about on an \$800,000 property located somewhere, and somebody is renting it at a value of \$2,000 per month.

I want to use that as a percentage of the person's income which I think is a reasonable measure that we should use as we talk about this matter being expensive or not. What percentage of your income are you really spending in property tax? And how much does this compare when you look at it in other

areas? And that is where I am going with this argument. That represents approximately 0.6 of your income, because remember, I said to get that house you probably need to be working for about \$8,400 joint income. So that is your joint income of the person and that is the percentage. I take a bigger property, one, let us say \$1.3 million, and the projected rent on that property \$2,500 per month. Again, to qualify for a mortgage of \$1,300 looking at the interest rates in Trinidad and Tobago right now, you need to have a joint income of about \$13,700. When you equate the property tax on that, when you are getting a rent of \$2,500 on that property, you are talking about \$67.50 a month, or put another way 0.5 of 1 per cent of your income.

We go on and we look at a property \$4 million and we are getting really expensive here now, \$4 million, and a \$4 million property projected rent, \$12,000 per month. So we are getting up. Again, what is the property tax? Approximately \$324, or again less than half of 1 per cent of your projected income, and I say that because if you get a mortgage for \$4 million to buy a property your qualifying income has to be about \$66,000 a month. So two people have to be working for at least \$66,000. Again, a property \$2,500, again their projected rent \$5,000 a month—and some people do pay rent like that, \$5,000 a month. The proposed property tax, \$135 per month. Again, in that case it is 0.3 per cent. So you are talking about generally—Mr. Vice-President, these examples show that property tax rate we are proposing are in no way oppressive. We have seen in some countries where on average—I have seen, for example, a similar situation in Barbados, a property \$1.3 million. Based on the method that they use for property tax, you will pay \$812 per month and that will represent about 5.4 per cent of your income.

You go to Antigua, similar property, \$1.3 million will represent 3 per cent of

your income. You go to Canada, a property \$300,000 in Canada represents, based on their methods of property tax, 4.3 per cent of your income. So let us put the facts square. When you look at property tax around the world, from developed countries to developing countries, to our Caricom neighbours, to as far as Canada, you are ending up in a situation and you are seeing where property tax normally represents 3, 5 to 6 per cent of your disposable income. That is what colleagues anywhere around the world pays for property tax. In Trinidad and Tobago, what we are proposing is a taxation whereby the property tax, based on the rental value of your property—and I have given you some examples—that will result to ranging from a quarter of 1 per cent to a half of 1 per cent. We are not talking here per cent. We are talking a half of 1 per cent of your disposable income.

So the concept of people talking about people are to be losing their properties, and so forth, Mr. Vice-President, I think it is a little bit alarmist and I think it is one that is tended to mislead the population with that type of rhetoric.

**6.35 p.m.**

I will even go as far. There is a particular country—as a developing country we all talk about Singapore and we like to refer to Singapore as our model as a developing country that has reached developed status in a certain space of time. And therefore, when we look at these places we like to only talk about the things about them that have happened good. All right? But we also have to measure and look at what they do and what has happened there.

The concept and the method that they are using for property tax is very similar to ours. It is exactly the same thing, rental value. That is the proposal. The only difference is, in Singapore whereas our rates range from 1 per cent to 6 per cent—and we heard some complaints about the 6 per cent—in that country, the rates range from 4 per cent to 16 per cent. Now, we could say: “Well all right, you

know, look at that, 4 per cent to 16 per cent.” Now, admittedly the per capita income of Singapore is a little bit more than ours, but I am saying although their per capita income is about three time ours, the rate, even at the lower end, we are moving from 1 per cent to 6 per cent and they are 4 per cent to 16 per cent.

So, as I said before, Mr. Vice-President, let us kill this idea and this discussion about this property tax being oppressive and that property tax is going to be so high and it is going to be a burden on individuals.

At this point in time, all right, especially as a result of the fact that in this country, our inflation rates have been checked. Based on the prudent management, we have inflation here in this country of about 3 per cent to 4 per cent. And, therefore, based on the disposable income in the country, and the percentage that this tax plays, it is a very reasonable tax.

Mr. Vice-President, the next point that I would like to talk about is, I want to deal with the fact of this tax, having recognized that it is reasonable, what provisions—any government, of course, needs to put protection in place for the less fortunate in the society. And, therefore, yes, this might be reasonable to all of us. But what do we have in place in this Bill or what we are proposing with these amendments, with regard to dealing with some of the less fortunate? Again, because we want to make sure that no one loses their property.

Let us go back and see what is before us. Section 33, for example, makes provision for persons who receive the following to apply for a deferral of property tax: public assistance grant, disability grant, senior citizens, pensioners or Trinidad and Tobago conditional cash transfer card. So we have made provision for people who are not in a position to pay, that there would be able to be some deferral.

At this point, I would like to support the point made by my colleague, Sen. West, who stated, as I quote, in the press, that pensioners would not have access to

these deferrals. And I think again that was something that was put out there, using again other parts of the country. I think I heard Sen. Mark say that is what happens in Barbados. I was not able to fact-check it. But Mr. Vice-President, while I understand that we must protect our senior citizens from taxes that might prove to be oppressive to them, we also recognize that the term “pensioners” covers a broad range of persons, and that some persons who are in receipt of multiple pensions or who would have worked in senior positions during their careers, in some of these cases, the pensions that they receive are even greater than a Member of Parliament or a Cabinet Minister's salary.

Therefore, the fact that someone is a pensioner does not mean that they cannot afford to pay the property tax. And we have to start in this country to focus our social services grant, and so on, on persons who really need them, especially in these times.

Therefore, the concept that was said, and I think Sen. West spoke about it, the concept of putting in means testing, which is something that we did when we dealt with the GATE programme, and we have to make sure that we cannot then have these sweeping things around that say, you know, just exempt a group of people. Right? We have to make sure that we are targeting our social programmes to the people who need them. And therefore, we are talking about—and we also have to recognize that these situations, that people's situations, do not always exist forever. And as such, it is important then that we put mechanisms—and this Bill attempts to establish a deferral. Section 23(1) attempts to do so by establishing a deferral period of two years, after which applicants must reapply to be deemed eligible for further deferrals.

So again, we are putting in systems, some of the changes that will enhance and ensure that we are targeting the right people and ensure that we put

mechanisms in place so that this fear that people will not be in a position to lose their properties; it is just again, as I said before, rhetoric and that is no way what our intention is.

Mr. Vice-President, an additional safeguard to ensure that those who need exemption from tax get them, is proposed in clause 6. This clause amends section 16(b) of the Property Tax Act, Chap. 76:04, and provides exemption for property tax for charities exempted from corporation tax under section 6(1)(g).

Another amendment this time, section 21(12) of the Act allows for the offsetting of an overpayment of property tax against other taxes owed to the State. The owner would also be entitled to a refund of property tax in the circumstances where there has been an overpayment.

We are proposing another amendment to the same section, which allows the owner who fails to file an objection within the time frame and has a reasonable excuse for not doing so, to apply to the Board of Inland Revenue for an exemption of time. This, of course, would be a benefit to the property owners. And then, there is an amendment which helps to make the process more efficient.

Clause 10 of the Bill, for example, amends section 21, which deals with the objections to assessments. It states that an objection to an assessment is required to be filed within 21 days after receipt of the notice of assessment, rather than after the tax becomes due and payable. This, of course, helps things to flow more smoothly and make the system more efficient.

With respect to the appeals process, this is now being moved to the Valuation Appeal Board, rather than the Tax Appeal Board, which we have all recognized will allow for it to happen a lot faster.

So you can see, Mr. Vice-President, that safeguards are being put in place to protect the interest of the property owners and to ensure that the systems flow as

efficiently and as smoothly as possible for all involved.

Indeed, the nature of the property tax itself, and the way it relates to the Valuation of Land Act, is meant to standardize and simplify the entire process from the valuation of the property to the collection of the tax on that property.

Again, we have heard some people talk about the fact that this is a very convoluted system and that it is not simple and people will get confused. Again, I do not share that view. I have heard my colleagues, while speaking on the valuation, speaking about the property tax in that particular manner. So I am preempting them again. If you look at it, this is a very straightforward, this is a very clear system. This is one where the process is very transparent. You do a valuation. You look at the rental of your property, the annual rentable value. There is a 3 per cent for residential; 5 per cent for commercial; 6 per cent, in some cases, for industrial where plants and machinery are housed, et cetera, et cetera.

So, Mr. Vice-President, we clearly are trying in this the property tax and this amendment. The facts are that this is nothing new. This is not a tax that one is looking at trying to impose on this country, that is going to, because we want to take people's property, or we want to impose anything that is too burdensome. We have also ensured, via the amendment that we have had, and the original Act, that there are provisions for people to get deferrals and we are giving them the appropriate time frames and simplify that process as much as possible. We have also tried to make the system very simple and transparent, so that everyone would be able to comply and no one would be able to say that they do not understand the process.

But you know, there was a point again made by our Independent Senator earlier and he talked about it. It is unfortunate that we have to impose taxes like this to try to raise funds because of some of the levels of reckless spending that

were incurred over the last five years. When you look at how it is we got to this position whereby we have to—

**Sen. Ameen:** “Blame Kamla still?”

**Sen. The Hon. R. Le Hunte:** You know—[*Crosstalk*—Mr. Vice-President, please, protect me. Mr. Vice-President, it is important, you know. There is an African proverb that I always use, and it really says: To forget is the same as to throw away. All right. You have to remember at all points in time. And I share the point that if we had inherited an economy, based on what was left and based on all the resources that Trinidad and Tobago have, we would not have been in this position.

But I want to remind us, what did we have to inherit? We inherited an economy, Mr. Vice-President, where we—In 2010, we left a situation whereby there was a \$6billion credit, \$6 billion credit, in the Central Bank account, the Government account, \$6billion. There was over \$16billion and more in the NGC's account. At that time, when we left in 2010, the level of debt in this country was \$45 billion. Those are the facts. Those are the facts.

During the period, all right, between 2010 to 2015, you had a situation where the average price of oil average, was US \$98 a barrel, facts. That is the fact. With that, what did we get when we came back in 2015? Again, fact, we met an account with negative \$9million in overdraft. The same account that at the point in time was in credit. We met a debt. Debt had moved to over \$75 billion. And most of all, the nice safeguard NGC account, which I have heard some people: “No, it really was not 16. It was 12, it was 11, it was 14.” The reality is, it was in credit. It was 16, based on the accounts, and now we have now gotten it dry, empty. Right?

Mr. Vice-President, the fact is that over the past year, that previous

Government “eat up, licked up” over \$62 billion in cash. That is the fact. All right? And during that time, we had budgets that came to this House in the vicinity of \$63 billion, \$59 billion, \$54billion. Those are the types of money and expenditure that was brought to this House. And in spite of all of that, all of that money, when we came back, yes if they had done all of that, in addition to utilizing all of the cash, we still ended up in a situation whereby there were still so many accounts at WASA, so many contractors that are unpaid. We ended up with the public service back pay still having to be paid. We ended up with a number of wage negotiations still not completed.

So, Mr. Vice-President, when we want to talk about property tax and when we want to talk about the impact on the economy, and when we want to talk about the burden to citizens, we have to put that into context of our present financial situation. This is not a situation that we would—we did not want to be in a position like this. When you look at some of the data that was presented by the Ministry, and they looked at a situation whereby this is an idea of what has happened to our revenue, we are operating in a situation, Mr. Vice-President, whereby 85 per cent of our income from the oil sector, all right, has dropped off. That is our reality. That is our reality.

As a banker, when I came, if I had a customer that came into a situation like that, I first will ask him: “Do you expect this to be a permanent situation? Are we going to be operating? Do you expect to get some income coming back soon?” And to Trinidad and Tobago, I think we all agree that the days of \$100 a barrel oil is something of the past. Right? We have to learn to live. We have been seeing some blitz recently. All right? But we have to learn to live within the range of where the oil prices are now.

Therefore, as a good banker, everyone will tell you what we have to do is to

cut your cloth to suit your?—style. You have to cut your cloth to suit your style. Again, we have to put this property tax. We have to put these taxation measures. And it is all well and good for people to say, or the Members of the Opposition to talk about the fact that you all are doing this and taxing the people here and taxing the people there. The reality is, right, this is the Government. When you are faced with this situation you have to cut your cloth to suit your style. And you have a few levers that you could push, you know, Mr. Vice-President. You have a few levers you could push. Now, you could single out this measure and you could single out that measure and you could single out the other measure, and you could talk about them in isolation, but it does not work like that. It does not work like that.

I have seen some recommendations and they will say do not devalue. They would say no job losses. They will say no utilization of the savings. Everything is no, no, no. Each one of the things are not—nobody wants to do these things. But you have certain levers that you could push.

As a Government, we have taken a position that the lever regarding devaluing this currency is not going to be beneficial to the poor. It is not going to give us the type of relief that we want. And therefore, we have decided to take a hold on that lever. So we have four levers. We hold one lever and we say: No we are not moving that lever. You have the other lever. You could decide, listen to me, you have less expenditure. You have to cut your cloth to suit your income.

You heard Senator talked about the fact of the deficit that we face. We have income of \$37 million. What do you do? You could then decide to cut expenditure. We have done that. We have cut a lot of the fat. We have moved from 63 down to 50. And you could decide to cut even further. But what will happen when you decide to cut further? If you cut further you will be cutting into

people's jobs. All right?

And this Government, as much as possible, is trying to keep that unemployment level at a decent level. We have a situation. We are a country who talks about crime. If we increase that unemployment level higher and we play that lever, so people who are saying: "Listen, to me, all right, do not do this, do not do any taxes", what you are in effect saying, if you want to move that lever, you do not want to move that lever, rest assured you would be called upon to have to move other levers. So we have taken a position that we are not moving that lever. It therefore leaves us with one or two other options, having decided that those two levers we want to keep.

We have to look at how we could increase our revenue, and we have to look at other ways of raising that revenue. And I make no apologies, Mr. Vice-President, that property tax is going to help as along that line.

Now, a lot of people have argued that it is going to be a small amount. I hear Sen. Mark talk about it is actually going to be a big amount. In my case, the more the merrier. Because the truth of the matter is, the more that we could get from property tax, and I have no problem—

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

**Sen. The Hon. R. Le Hunte:** I have no problem with individuals who have big properties and people who are living in houses, paying more in property tax and I am able to collect a little bit more. It means, therefore, when I have a little bit more I will then be able to fund a lot more of the social services that I want to keep.

So, Mr. Vice-President, it is a balancing act. It is a balancing act. This property tax falls under the realm of us trying, as we attempt to balance this and we attempt to transition this economy from where it is at, to one whereby we are

bringing it down gradually with adjustments. This is one of the attempts for us to increase revenue. Is this the only thing that we are doing? No, Mr. Vice-President. We are also looking at trying to increase the tax efficiency in the country.

And you will see other legislation to come to this House, to talk about how are we going to collect more revenues from people who are evading tax. And that is to come. Do not think this is in isolation and this is the only thing that we are doing. No. We are doing other things. Are we looking at cutting expenditure? Of course, we are. We brought it down from 63 down to 50 and we are looking at other measures to keep out expenditure down

So, you cannot then take property tax—and I like the position, as I said going by Sen. Taurel, when he brought it into context. Right? And it is important that you put this into context. We do not particularly like going out and taxing. We had to do it with the financial services, where we put on a special tax, because we are about spreading the adjustment to all. And this must be looked at in this context.

In summary, again, in the midst of doing that, in the midst of spreading the adjustment, all right, based on our present circumstances, we are still doing that in a very, what I will consider in a very humane manner. We did not go. We did not impose a tax that is going to be onerous or very onerous. No, it is not going to be very onerous. I have shown you that as a percentage of disposable income, it is one of the lowest property taxes. When you look at it, of all the 177 countries that have property tax in the world, this rate is one of the lowest as a percentage of disposable income.

We have measures in this Bill to protect the people and the less fortunate who are unable to pay the tax. We have done that. And this is a time where we are, where the country has a deficit. Mr. Vice-President, if we do take the time, if

we do not make these adjustments ourselves, we are going to eventually, like other countries in the Caribbean, find ourselves one day falling off the cliff. We have to decide, as responsible people, to make these adjustments for ourselves, failing which other individuals and other people are going to force these adjustments on to us.

So property tax, small as it may be, it is going to help this Government in increasing revenue. Property tax is something that we put a system in place, that it is important that people know that you have a property and you have to pay for it.

In 2013, when oil prices were up as high as US \$97, the previous Minister of Finance felt that property tax, it was the time for it to happen then. Mr. Vice-President, now where the oil prices have fallen—I do not think he even anticipated it will fall so low—I cannot find the adjective to describe what it should be, why we should need it now. And if we need it then, we need it now more than ever.

I therefore, again, look forward to all supporting this much-needed change. Thank you very much. [*Desk thumping*]

**Sen. Khadijah Ameen:** Mr. Vice-President, I was appalled when I heard the Minister in the Ministry of Finance say \$500 is nothing. [*Desk thumping*] And today hearing the contribution of the speaker before me, hon. Minister Le Hunte, it is clear, even more so now, that this Government is insensitive, ungrounded, unrealistic, callous and totally uncaring. [*Desk thumping*]

I listened to the Minister who would have had the good fortune of having income significantly over what he was describing where a cleaner and a securityguard whose combined income of \$8,000 could afford them a mortgage for a house valued of about \$700,000 or \$800,000. Clearly these people would not be paying.

**Hon. Senator:** These people?

**Sen. K. Ameen:** These people who he described, not you Minister. These people who he described—the cleaner and the security guard—certainly would not be sending any children to school, would not be buying food with increased VAT prices, would not be paying any higher purchase, would not be paying any electricity bill, any utilities, or anything like that.

Mr. Vice-President, I grew up in a very poor family and I still belong to a very poor family. And when I hear people who have lived lives with five-figure incomes try to describe what a security guard and a cleaner, what their household income might earn them, you know, stick to what you know. “Is better yuh stick tuh what yuh know.” You are totally out of touch with the reality of thousands of people in this country. [*Desk thumping*]

**7.05 p.m.**

Mr. Vice-President, as I begin my contribution, there are a few things I want to respond to what the Minister said before I go on to the meat of my contribution.

The Minister continued with the PNM rhetoric of blame UNC, blame UNC. After three years in government I want to remind you of what the People’s Partnership—what the UNC inherited in 2010. In that time we did not have to increase any property tax. Mr. Vice-President, that former PNM Government spent \$30 million on a mystery church that ended up collapsing. They left a \$25 billion Clico debt to be cleared up by the UNC Government. They were owing contractors \$2 billion. You had that debacle of the Scarborough Hospital, where so much material went mysteriously missing, that famous Landate fiasco. You had over 75 unsettled wage negotiations. [*Desk thumping*] You had the Tarouba Stadium, and some of the debts including from the Housing Development Corporation, \$12 million; the Airports Authority over \$478 million; the PTSC, \$26 million; WASA, \$206 million; the Regional Health Authorities, \$2 million;

national security is \$11 million, and the Urban Development Corporation of Trinidad and Tobago, a board on which the hon. Minister served as a Director, \$3.4 billion. And you ask why we had to increase borrowing.

In the Uff Commission of Enquiry into the Las Alturas debacle, it is on record the role the gentleman who now serves as Minister of Public Utilities played in that scandal, in waste, corruption and mismanagement.

**Sen. Singh:** Standing Order 46(6). [*Crosstalk*]

**Mr. Vice-President:** Are you done?

**Sen. K. Ameen:** “Allyuh cutting into my time, yuh know.”

**Mr. Vice-President:** I just want to remind you of the Standing Order of imputing improper motives on a sitting Member of the Senate. So continue your contribution and just be careful.

**Sen. K. Ameen:** Certainly, thank you Mr. Vice-President. But just to let you know I was not imputing anything about the Minister’s motive, I was just indicating what is on public record and that is a fact in terms of the waste, corruption and mismanagement of the UDeCOTT, including when certain directors were there.

Mr. Vice-President, the logic put forward thus far by the two speakers on the Government side so far in this debate, seems to be, one, because you can afford and all-inclusive fete ticket you can pay property tax. [*Interruption*] The Minister in the Ministry of Finance did make that suggestion during her contribution, just in case you missed it. First of all, not everyone could afford all-inclusive tickets, and the presumption by those in authority that that is something they take for granted, that that is affordable by any person, again points to how disconnected they are from reality.

Property tax applies to everyone, but the fact is that there are thousands of

people in this country living below the poverty line. There are pensioners. There are about 60,000 pensioners who live on their \$3,500 a month pension grant from the Ministry of Social Development and Family Services. There are thousands, I understand about 15,000 persons, who are differently-abled who receive a disability grant of \$1,800 per month. There is an increasing number of unemployed persons, thanks to this Government who is causing people to be losing their jobs more and more every day. Even for those who earn \$6,000 a month, they are struggling to make ends meet, but there are thousands who earn less than that, single parent families, single income homes.

So while there may be a few very fortunate retired bank managers who would get two-thirds of the salary they last worked for as their pension, which might take them up to about \$40,000 or \$50,000 as their pension, a teacher who gets a pension from the Teaching Service Commission gets about \$7,000. Who is in the majority? So the very few people who might be entitled to quite handsome pensions, I am happy for them. They would have worked, they would have served, but a cleaner who works with MTS or worked with MTS would get a little “cacada” from the National Insurance Board. If your records in NIS do not allow you to qualify for a pension, you would then get the pension grant from the Ministry of Social Development and Family Services. But the argument has been put forward not that property tax should not be paid, but that any tax that should be paid must be fair to all and it must be well thought out.

I think one of the main sentiments that come from people who are objecting to the property tax brought by this Government at this time, is that now is simply not the time for it based on what citizens are facing. The hardships faced by citizens now, have in large part to do with the incompetence and the ineffectiveness of this Government.

Mr. Vice-President, I think under a previous government there was an “Axe the Tax Campaign”, and Mr. Prakash Ramadhar was a main player in that, and I think this just captures it very well. He said in Parliament in 2007—so that was just last year—this country is overtaxed already and that tax to homes where persons have lost—

**Mr. Vice-President:** Sen. Ameen, just now. Is it 2017 you are trying to say, and is it the *Hansard* record you are reading from? Do you have a date to go with that?

**Sen. K. Ameen:** Oh no. This is a *Newsday* article.

**Mr. Vice-President:** Just give the name of the article, the newspaper, the date.

**Sen. K. Ameen:** So this is the *Newsday* of June 11, 2017, and the title of the article is:

“Times too tough to pay property tax”

As I was quoting, he said:

“...‘this country is overtaxed already and that to tax homes where persons have lost jobs and are fearful of losing their jobs—many who are working live on the edge where their disposable income is minimal and to put that fear factor in the one place where you are supposed to be comfortable. I do not believe that we should pursue property taxation,’”.

That seems to be the one thing that this Government wishes to close their eyes to. Many of the taxes that Mr. Ramadhar referred to in terms of being overtaxed are taxes imposed by this Government either directly, most without consultation or consideration, and one in particular that I feel happened, people were deceived, because the promise was to reduce VAT and what they did in fact do is decrease VAT from 15 per cent to 12.5 per cent, but increased the number of items that VAT was charged on, and effectively having a net increase on what the population pays in terms of VAT. That was a great deception that was perpetrated on this

country. Over 10,000 went from zero per cent to 12.5 per cent in VAT. [*Desk thumping*]

Mr. Vice-President, I want to go into some of the reasons why one of my biggest beliefs is that now is not the time, based on the present situation, to bring another new tax. My first question to this Government: you are yet to indicate what your purpose of this tax is. We know that it is to bring revenue for you. Revenue to buy more boats? Revenue to buy more paintings? Revenue to buy more Mercedes Benz? Tell us. Revenue to groom golf courses? What is the purpose of your property tax? I want to read some pieces from an article entitled, "Tax Law Design and Drafting" from the International Monetary Fund. It more or less gives guidance to countries when they are drafting and designing law to tax properties.

"Introduction

The primary reasons for imposing a property tax include incentives for efficient land use,"

Does your tax do that?

"...a tax base that cannot be withdrawn from production and establishment of an autonomous revenue source for local government."

Does your tax do that? The UNC has spoken on many occasions about what we feel an appropriate tax when it comes to property, to land and buildings and what it should be, and to me I believe that your purpose of your tax must be very clear, where it is going you must be very clear.

**Sen. Gopee-Scoon:** So you are supporting the tax then?

**Sen. K. Ameen:** So you must tell the population why you want to have a tax, because the fact is, I mean, we know that there are many countries in the world where property tax is par for the course, but I am saying you cannot have an unfair

tax and expect everyone to pay for your mistakes and your misjudgments.

So why are you having a property tax? A tax must have some objective, some fiscal, some political or some legal objectives and it is critical to identify those for any sort of collection that you are going to do. And my question to this Government: Have you identified your purpose for this taxation? Please do not tell us it is just revenue to go to the Consolidated Fund. That is not a good enough justification.

These are also recommendations from the IMF advising on drafting, designing property tax laws.

“A property tax is often designed to provide an independent source of local government finance, whether or not collected and administrated locally.”

So the regional corporations do not necessarily have to administrate the tax, but the proceeds would go to them:

“A tax on land and building offers a revenue base that, unlike sales, payroll, or income, cannot readily shift to a neighboring jurisdiction.”

So even if there is a central or national body collecting the taxes, based on the amounts received from within a particular region, that funding will go to that region and it can in fact be supplemented by revenue from the Consolidated Fund when the budget does come around. However, the benefit justification has important limitations.

“Often, the properties that place the highest burdens on local services and pose the greatest fire and safety risks are poorly maintained structures of low value. More expensive buildings may be better maintained, built more recently and to more exacting safety standards and even protected by private security arrangements.”—and we have seen that—“An equally limited but politically significant justification rests on the ability to pay, demonstrated in

part by the ownership of valuable property.”

One of the recommendations argue against a government having any excessive reliance on property tax, but not against having a property tax in itself.

Mr. Vice-President, one of the roles of a property tax is it will also define property rights.

**Mr. Vice-President:** Senator, let me just offer a little guidance. For the most part I allowed you to, mostly in response to speakers that have gone before you, speak on the general principles of the property tax. It is about halfway through your contribution and I am yet to hear you refer to any of the clauses in the Bill specifically. Other speakers, even though they would have spoken about the general principles, at some point would have tied it into the actual clauses. So I would ask at this point that if you have any points that would speak on the actual clauses and the Bill in front of us that you can move on those. You have given arguments and points in relation to the general principles. So could you move on to the amendments in the Bill that are proposed to the actual Property Tax Act that has been passed already.

**Sen. K. Ameen:** Let me just for clarification indicate that I was responding to speakers who went before, and I know that that is part of debate. We respond to those speakers who have gone before. So I have my points, the notes that I took during the debate and I have my points that are based on the actual—

**Mr. Vice-President:** I understand. The thing is that, that is why I said I allowed you for at least half of your contribution so far in terms of time to respond to the general principles put forward. Everybody is talking on the general principles of the property tax as it relates to this debate. What I am asking you to do now is to at least mention a clause or two in the Bill, because you are going to end up speaking for 40 minutes on the general principles which is not what is supposed to happen.

So continue.

**Sen. K. Ameen:** Okay. Mr. Vice-President, I want to refer to something that the Minister said. *[Interruption]* Listen, everybody has their own speaking style, and there are people who will refer to clause by clause and go on it. I really want to speak—it is not just about the general merits of the Bill and so on. And I am not going to be deceptive but just calling a clause number, but if it satisfies you—*[Laughter]* Sorry, let me not put it like that. In order to satisfy the requirement that you have put forward, Mr. Vice-President—*[Interruption]* That would be so deceptive. *[Crosstalk]*

Mr. Vice-President, one of the headlines in the newspaper was that squatters will have to pay property tax. That is not a new headline or a new issue that has come up. So I want to refer to the article that recently reported what the Minister in the Ministry of Finance indicated in her contribution on the last day when we started debate on this matter. I remember that in May of 2017 the Government had indicated—this was a *Guardian* article—that it was seeking legal advice to examine whether squatters on private land and those with buildings on state land would have to pay tax. That was put forward by the Minister of Finance, hon. Colm Imbert, and he said that the Attorney General had asked the Solicitor General to examine the matter. He indicated at that time that a squatter that has a building on land they do not own, they may have to pay property tax for the building, but not the land. And the Attorney General claimed that squatters with certificates of comfort for a property may also have to pay property tax.

Mr. Vice-President, in the present Bill before us, the Minister indicates that the State collecting tax does not give title to the person who is paying the taxes. Part of the purpose of a property tax is to define property rights. So the role of property tax in defining property rights may be among its most significant

contributions to the economy in transition. The World Bank said this. One often overlooked when the levy is considered solely as a fiscal instrument. I feel that the Government is erring by considering this property tax solely as a fiscal instrument, solely for generating revenue and overlooking the issue of property rights.

Having worked with numerous squatter regularization exercises under different administrations, I feel we cannot speak about property tax and about taxing squatters if you are not going to regularize squatters. Since the inception of this Government's term they seemed to have stopped the regularization, and I want to plead with the Government to resume regularization of squatters so that you will have law and order and public health and all the other advantages within those communities.

There is also clarification about a continuing public claim upon a portion of land in the form of an annual tax, can reconcile those competing positions. So apart from squatters there are situations—and there are Members of the Government who are aware of situations where, for example, lands had been rented by the State previously. I know of the estate of Bhadase Sagan Maraj which then went to the State, and his tenants, people who were renting his land in Pasea remained paying the rent to the State. After he died and his estate passed to the State, no documents were ever given to them. For a short time they did get temporary leases, and they are entitled to the land. They are not squatters. They have a continuing public claim on these lands, but it is for the State and the Government to ensure that if you are going to impose a property tax, that it is fair to them and that they have title to the land.

So when the Minister spoke earlier about the fact that squatters will have to pay and that it does not give them title, those are matters to be considered. You cannot simply think about the fiscal benefits alone.

[MADAM PRESIDENT *in the Chair*]

Madam President, I want to go to some other issues and these were issues put forward in the same paper, “Tax Law Design and Drafting” from the International Monetary Fund. Issues to be considered when drafting:

“A practical evaluation of any proposed legislation must examine such questions as these:

1. How is the system of identifying properties and taxpayers coordinated with current land and property records? What agencies would be responsible for maintaining this information?”

We have the CSO; we have Lands and Surveys. We have some information in the regional corporations, and I want to just come back to the regional corporations a little later in detail. But this is a Review of Property Taxation in Trinidad and Tobago which was based on the Ministry of Planning and Development report of 1990. This was a Land Use Policy Administration Project of May 2000. It spoke about the state of records relevant to the efficient administration of property tax, and the fact that it is unsatisfactory.

They spoke about Town and Country Planning Division, of the Ministry of Housing and Settlements at that time, had produced plans for the regional and sub regional towns in accordance with their statutes. We know that local area development plans had been done for all regional corporations in about 2008/2009, and when the People’s Partnership came into government they were adopted, so those local plans remain in effect. What role does this property tax have in fitting into those local development plans? They were called “spatial development plans”.

The Central Statistical Office, the CSO, the Office of the Prime Minister also maintains a spatial database on buildings and occupants at the enumeration

district level for disaggregation. The data of the CSO is computerized, including the electoral district maps which are digitized. In addition to the Town and Country Planning Division and CSO, Lands and Surveys Division of the Ministry of Housing and Settlement, at that time, a source of maps and aerial photographs. No mechanisms currently exist to link the records on the assessment role of the Valuation Division. This was outlined as an issue way back, as I said, in May 2000, a land use policy administration project. The question today—

**Madam President:** Sen. Ameen, I just need to reinforce this point that your contribution is based on property tax. There is an Act in place already. There is an amendment Bill before the House, and I need for you to address some of the issues in the Bill, because you have given quite a bit of context already.

**Sen. K. Ameen:** Thank you. Madam President, I was dealing with the issue that came up with the records in terms of the property roles, where they spoke about evaluation. Once you do half of the country, you would have—

**Madam President:** Is that not, Sen. Ameen—sorry, could you just have a seat. Was that not the last preceding Bill that we just completed?

**Sen. K. Ameen:** Okay, Madam President—

**Sen. Khan:** Say thank you and sit down.

**Sen. K. Ameen:** Excuse me? My time is not up; do not tell me to sit down.

Madam President, I want to move to clause 17 where they spoke about the moratorium with respect to the property taxes, and where it was initially the 30<sup>th</sup> of September, 2018, and then we had in this thing that came before us, the 30<sup>th</sup> of September, 2016. It is my view that the Government does not have the mechanisms in place, the State mechanisms in place to begin fairly collecting any property tax, and to put this retroactive in 2016 as an increased burden on the citizens—

**7.35 p.m.**

The question with regard to any sort of fine, any sort of punishment is to ask: Will the interest and penalty provisions encourage a reasonable level of compliance? This is a new tax, you want to encourage people to pay their property tax. There are other countries who give a little discount when you pay early, and this punitive approach by the Government for this period from 2016 to present, and then later on if you default in any way, Madam President, I feel we could do a little better than that.

And I just want to refer to, I think, this is in Florida, Palm Beach County. Taxes are due and payable on the 1<sup>st</sup> of November or as soon as the taxes are received. An early payment discount of 4 per cent is available for taxes paid in November, 3 per cent discount for taxes paid in December, and 2 per cent for taxes paid in January, and 1 per cent for taxes paid in February.

So this is a suggestion that we can take into consideration. And let us be proactive, let us encourage people to pay on time rather than be punitive and retroactive in terms of punishing people who have made late payments. But even when you do have this period from which you will begin the taxation, I want to suggest that we leave at the 2018.

So, Madam President, I want to move to some recommendations. I mentioned that my strong view that property tax, the proceeds of any property tax or land and building taxes should go to the local authorities. I have a few examples and a few models that I would refer to. I mentioned the incentives in the Palm Beach County, but also the Canadians had some points that we could incorporate in our Bill if we are going to do that. And I want to, again, call on the Government where in terms of clause 5 with regard to not giving—to provide that any liability to the property tax by the owner of any building or other chattel does not create a

legal entitlement to the land. This obtains mostly for squatters, and where the owner of the chattel is not the legal owner of the land.

Madam President, the provisions for exemptions, clause 6. The provisions for the exemptions from property tax for charities are exempted under the corporation taxes and for approved charitable purposes. Madam President, I have concern with that.

**Madam President:** Sen. Ameen, you have five more minutes.

**Sen. K. Ameen:** All right. There are a number of people who can register organizations simply to escape the property tax, and the mechanisms of the Government have to be strong in terms of checking on those things.

Madam President, the other point I want to raise has to do with the valuation division in terms of who is responsible for the valuations presently. These taxes will be based on assessments. I am not satisfied that the persons who are trained to be assessors to decide on the tax that people will pay, are suitably qualified, and I trust that somebody on the other side could explain that to us.

I want to ask the Government if they could tell us how long they think it would take to establish the proper staffing and the administrative structure to properly and efficiently and effectively collect these taxes. There are a number of taxes, and every year in the budget when we look at the return of revenue, you see the estimated tax in terms of the projected, what they are expected to collect, what the State expected to collect and what they do, in fact, collect. And it is very often it is less than half, less than 50 per cent, and that inefficiency in collecting taxes, I fear will come across to this property tax simply because the mechanisms are not in place at the Ministry, and where you have this new—Madam President, I am of the belief that this moratorium should—

**PROCEDURAL MOTION**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until 9.00 p.m.

*Question put and agreed to.*

**PROPERTY TAX (AMDT.) BILL, 2018**

**Madam President:** Sen. Ameen.

**Sen. K. Ameen:** Thank you very much, Madam President. There is a proposed new section, section 20. Any amount of a refund under subsection (1A) that remains outstanding for more than a period six months after the date by which it is due shall bear interest.

I want to compare that to section 20(1), where basically they could owe you, but you “cyar” owe them. And I find that unfair. If I have to pay a penalty for a late payment, then if the State or the state agency owes me as the taxpayer moneys, and they have not paid for beyond time recommend here to pay, then you should be paying me interest. So, I find that rather unfair.

Madam President, in my two minutes to wrap up, I want to—my one minute to wrap up, I want to indicate that there nothing wrong with a property tax, but a property tax must have a specific purpose that will directly benefit the people of the local region. This tax does not have that. A property tax must be fair. This tax is not fair. A property tax must exist in a framework that is accountable and transparent, and this tax does not do that. I am not prepared to support property tax at all in this form. [*Desk thumping*]

**Sen. Dr. Dhanayshar Mahabir:** Thank you. Thank you very much, Madam President. Madam President, this particular Act, and Act to amend the Property Tax Act reminds me of the play Hamlet, Prince of Denmark. The play is finished

and the Danish prince is yet to make an appearance. Let me focus on the clauses that I would like to address, and then I would recommend what I consider to be the appearance of the substantive element.

Madam President, clause 5, it is of concern to me because clause 5 states that there is no legal entitlement to any:

“...land upon which the chattel is located where the owner of the chattel is not the legal owner of the land.”

What is of concern to me, Madam President, is that when someone pays a tax, he is complying with the law. When a tax is levied on someone or where he occupies, the State has implicitly agreed that this person is liable to tax. Is it that we are at a stage now where it is okay to tax illegal activities? I always thought squatting was illegal in Trinidad and Tobago, because there is an issue known as moral hazard. If you want to collect more property taxes, simply encourage more a lot more people to be squatters and we collect the taxes there.

So, Madam President, I am a little bit concerned where the State is actually benefiting from an illegal activity. So that is clause 5.

**Sen. Ameen:** And then they will bulldoze people.

**Madam President:** Sen. Ameen.

**Sen. Dr. D. Mahabir:** And I would hope, Madam President, as matter of public policy that this particular tax will be levied on persons who may be deemed to be squatters, but who have letters of comfort, and therefore, there is a legitimate expectation that at some time they may arrange to have title on the land.

Madam President, another clause. Clause 15, and in particular 15(2). A couple hours ago we concluded the debate on the Valuation of Land (Amdt.), but what 15(2) says is that:

“A person who has objected to his assessment under section 21 and who is

dissatisfied with the decision of the Board, may appeal to the Tax Appeal Board in accordance with the provisions of the Tax Appeal Board Act.”

I thought that that, Madam President, was over and done with and therefore, the drafters will have to look at 15(2). It is true, I understand the conundrum. It is true that the Valuation of Land Act has not been assented to and therefore, we cannot put it in the legislation. But I cannot say I will agree to a piece of law where two hours ago we repealed 15(2), so that I am sure that the drafters will find a way around that.

It should, may appeal to the Valuation Tribunal in accordance with the provision of the valuation tribunal board Act, but the reality is, that has not been assented to, so this piece will have to be addressed in my mind by the drafters.

Madam President, clause 23, it says that there some is some retroactivity to 2016, but one would have thought that the Government would indicate quite clearly to this honourable House why they intend to reverse or to go back two years from September 2018 to say September 2016 to collect these outstanding taxes. Why not three? What is the reason for collecting taxes from September 30, 2016? It would appear that it was just done without much thinking, because maybe two years seemed to be a reasonable amount, but I would recommend for consideration that if the legislation is passed, that out of equity and fairness, we levy this particular tax 30<sup>th</sup> September and we change 2016 to 2018, and I leave that for the Government.

But, Madam President, my concern with the amendment is that I was expecting to see a clause in here and I am proposing it. I was expecting to see a clause in here to address what I consider to be the major concern of the entire society. The hon. Minister of Public Utilities when he addressed us a short while ago indicated to us an African proverb that I think is very telling; “To forget is the

same as to throw away”. Well, it is important for us not to forget what happened to Margaret Thatcher in 1979 when she tried to impose a poll tax. Despite what was advised, she lost support from her own party. And so, Madam President, and to forget what happened in 2010 as well, public sentiment is very much against this.

And I want to indicate quite clearly. Every single citizen of Trinidad and Tobago should look forward to paying his property tax, but, and there is a caveat. You see, Madam President, I am coming to what I consider to be the essential point that ought to have been addressed, given what we learned from 2010 and what we are trying to do eight years later.

In piloting the Bill, and I am grateful to the Parliament staff for making available to me the *Hansard* transcript of the hon. Minister in the Ministry of Finance. The hon. Minister indicated the following:

“Having regard to all of those burdens that impact significantly the revenue that we are currently receiving, we can no longer afford to not collect property tax. Sen. Shrikissoon in his budget contribution urged the Ministry of Finance, through me, to try and balance the budget. We cannot balance the budget without collecting revenue. We cannot. So in that context, Madam President, we are obliged to operationalize this legislation...”

This means, Madam President, that there is an objective of the property tax from the Government. It is stated quite clearly and the objective is to balance the budget.

I, of course, disagree with hon. Minister who indicated that we cannot balance without collecting additional revenue. You can balance by cutting expenditure too, and you can balance by increasing collections so that the property tax, to my mind, as Government’s policy as stated by hon. Minister to fill the fiscal deficit is where the concern lies.

There is, of course, another issue that I had with the Minister as she piloted and when she indicated, with your leave, Madam President, I am quoting from the *Hansard* transcript.

“So as I said, Sen. Mark indicated during his debate that was supposed to be related to valuation, to comment on the fact that Barbados gave all pensioners a 50 per cent relief. I think that our version of the relief is superior to that because, as I indicated, a pensioner does not mean somebody who cannot afford. A pensioner just means you have retired from employment.”

I will return to that in the subsequent part of my contribution.

But, Madam President, I think a clause is missing from the Bill, you see, and it is something that Sen. Ameen alluded to, and that is. Let us be sure about what it is, and we are amending, you see, we are amending a legislation. Why are we amending? We are amending to put right certain things that may have not been right in a previous incarnation.

My proposal for a new clause 3, we said, clause 1 in the amended Bill says, this Act may cited as a Property Tax (Amdt.) Bill, 2018.

Clause 2 says:

“In this Act, ‘the Act’ means the Property Tax Act.”

And I would recommend for the consideration of the Government that there is a clause 3 which states, that the revenue derives from the property tax shall be used exclusively to finance the operations of local government bodies in Trinidad, not Trinidad and Tobago, because Tobago has its own arrangements with respect to the transfer of some 4.1 per cent to 6.9 from the central government.

So, my proposal would be, and this is where we would be able to eliminate a lot of the discord and the disharmony which arose in the past and which I suspect

may arise in the future.

The revenue derived from the property tax shall be used exclusively to finance the operations of local government bodies in Trinidad. I know this goes against the grain of Government's stated policy. But, Madam President, I fear if we do not do this we may lose the chance of doing two things, collecting revenue which is due to the state, and second, and I would like the entire country to support the Government on this measure. Let us pay to the Government this particular tax, but let us dedicate this particular tax to the financing of local government operations. Why I am saying this?

You see, you have to ask yourself: What is the difference between this particular tax and the income tax or the expenditure taxes that we have? This is a tax on wealth; you see, it is peculiar one. And Sen. Mark in his contribution was alluding to what the Member indicated, the current Prime Minister as to what ought to be the purpose for this tax. A wealth tax is always going to be problematic.

And one may ask, Madam President, why not tax all wealth? Why only tax property? It is possible, is it not that we could ask someone to give us a list of all his mutual funds, his stocks, his bonds, his monetary instruments, his currency and we can tax a percentage of that. It is possible that we can do that, but we do not. There is a good reason for that. We do not tax monetary wealth because of the double taxation argument. It was accumulated from— [*Crosstalk*] You want me to give way?

**Hon. Senator:** After that.

**Sen. Dr. D. Mahabir:** Yeah. Yeah. It is wealth accumulated after there was a tax on a flow, and so if you were to tax monetary wealth it is double taxation. The argument has always been: Why do we not tax then the flow from that wealth

which is interest income? And there was a tax, Madam President, on interest income in Trinidad, and I was an instrumental figure in persuading then Minister of Finance, hon. Brian Kuei Tung, that it should be removed because any tax on interest income is a disincentive to savings which will injure capital accumulation in a developing economy and that will stymie economic growth. That tax was removed.

But, Madam President, why is there then this justification and rationale for the property tax? And the reason is simple. Owners of properties benefit from services supplied by the State, but which services? Is it defence services? No, that is general revenue. It is garbage collection, it is the clearing of water courses, it is parks, it is the various services associated with the amenities in a local government locale, and because properties are located in a locale, I know it is tautological, it is argued that the beneficiaries there should pay for the cost. And, Madam President, there is a long history of the property tax.

The Minister of Public Utilities indicated that the rate in Canada is very high, something like 4 per cent and so on. And what he did not indicate of the 170 countries or so which have implemented this tax, how many of them use the tax for central government financing, and how many of them use that for local? [*Desk thumping*]

**Sen. Khan:** Madam President, I thank Sen. Mahabir for giving way. I see everybody is speaking about municipalities. It is a municipal tax, and in principle doing the local government reform, we are committed to that. I will be speaking later on in the debate so I do not want to take up too much time, but I will be covering how we plan to implement the local government reform process in the context of the property tax.

**Sen. Dr. D. Mahabir:** I think the hon. Minister, and this is music, Madam

President, to hear, because finally we are getting to target the tax to where it ought to be. Because, you see, the history is that we should learn from something known as the philosophy of the tax, and I always thought that the local government legislation should have come first, the valuation amendment coming second, and the property tax coming third in that sequence. [*Desk thumping*]

You see, Madam President, there are two bases, and I must confess in that, at the PhD level public finance was one of my specialties, and I never practised. Today is the only day in my career I am getting a chance to demonstrate my knowledge of this area, having written papers on the thing.

Madam President, there are two criteria. The criteria is one, availability to pay, and benefit, there are two criteria. And local, we tax wealth although the wealth has been accumulated out of after tax income two. There is good reason to avoid the double taxation argument because of the benefit criterion. And I expected the Minister of Rural Development and Local Government to have been a critical person in this debate, because you see, with my proposed amendment, every five cents, because cents are now going to be, I think, no longer in use come July, every five cents collected would be allocated to the Minister of Rural Development and Local Government and he will then determine basically the allocation.

But, Madam President, this is a long tradition and we are not in Trinidad and Tobago making use of established knowledge in the field. Taking the tax to fill a hole at central government is going to create needless resentment on a tax that we absolutely need. And I think it is important, it is good to hear the Government say that they will come, it is an assurance, but the reality is we need now to understand that local government needs to be financed, and every regional corporation which is starved for funds, and the flooding we have seen because they did not have the

funds to clear the water courses.

I saw the hon. Minister of Rural Development and Local Government with tall-top boots and so on going through flood waters. I think we could avoid that if we as a society indicate that this is one tax, it is idiosyncratic, you see, it is peculiar, it is not [*Crosstalk*] like the other taxes which are flows. This tax—

**Madam President:** Sen. Ameen, Members and correspondent—please. Sen. Mahabir is giving a very enlightening contribution. Can we please listen to him. Sen. Mahabir.

**Sen. Dr. D. Mahabir:** And thank you, Madam President, for giving me this opportunity to deliver my first lecture in the public finance in a career that is coming to a close. But you see, Madam President, yeah, it is coming to a close, the Senate, of course, but not outside. [*Desk thumping*]

Madam President, the wealth taxes have a long history, as injurious as they may be to someone's wealth, we have to pay the property taxes, because if do not what will happen is that the services we need at the ground level will not be financed, and it is important for citizens to accept and embrace this tax. Nothing is more injurious to a government when a citizenry indicates to the Government that, for whatever reason, they are not paying this, it is not good public policy. So let us see how soon we can get the matter of local government financing before us.

For those who say, Madam President, that it is all theoretical and all hypothetical, I want to refer to this particular book, it is called *First in Trinidad* Michael Anthony. And I want to express deep gratitude to Michael Anthony for outlining the history in Trinidad and Tobago which indicates that the first property tax was not 1920, it was 1851, and let us see exactly what happened at that time. And you see, I am buttressing my amendment, Madam President. My amendment is, I want this thing to go to local government.

On page 98 of this book *First in Trinidad*, what the author says is that:

The first system of primary education in Trinidad emerged in 1851 when Lord Harris having established the Wards called on each Warden to open at least one school; having established the Wards.

And then he continues on page 99:

Harris was depending on money from ward rates. Harris was depending on money from ward rates to run the primary schools.

History, Madam President, 1851 Lord Harris established the wards, he established the counties after the patron saints of England, Wales, Ireland and St. Andrew, St. David, St. Patrick and so on, Victoria after Queen Victoria, and then he established the ward rates.

And, Madam President, these ward rates were used to actually build schools. I went to the Cunupia Government Primary School that was opened on 31/8/1931. It was financed—it was built by the colonial Government, financed from levies on the plantations in the ward of Cunupia, and it was how the colonial Government financed the thing. So that we are not really far removed from the Canadians and the whole 170 countries from devoting our local property tax rates to local expenditure.

So, I really look forward to the hon. Minister of Energy and Energy Industries former Minister of Rural Development and Local Government for dedicating this amount of tax, and when we do that, we will see that there is a vast literature that is developed. We do not need to reinvent the wheel.

It was indicated quite as early as 1956 Pure Theory of Local Expenditure, Charles Tiebout, *Journal of Political Economy* where he indicated that once you are able allocate your taxes to the local government bodies, people will move. So that in these locales so that there is a proper allocation of people and services.

Where there are a number of young people, you will get a lot of parks with little toys in it, where a number of older people, parks with lanes to walk, and you will have an efficient allocation of resources.

The Wallace Oates argument well developed abroad that not all jurisdictions, Madam President, will have enough money to finance their social services. You might have one like Tunapuna with a lot of properties and a lot money, and one like Tabaquite/Talparo with a smaller amount of properties and a smaller revenue, and this is where the Minister of Rural Development and Local Government comes to arrange a transfer mechanism based upon a minimum level of services.

Minister Franklin Khan knows what I am talking about. You would have gone through all of this in the local reform government process. I am just wondering why is it we have not seen this before.

**8.05 p.m.**

And I say this, Madam President, the last time I saw a piece of legislation on local government was September of 2013, that is five years ago, when we were debating the amendment to proportional representation for the selection of aldermen. We have not seen one since 2013, and I think that the Government may have erred a little bit in not bringing that piece of legislation for us, targeting it with valuation; and coming to the property tax, it would have made for greater symmetry in how we had this particular piece of legislation before us. But, we are awaiting the Minister, the Minister of Local Government, as well to see his contributions on the matter.

Unless we do this, Madam President, what would happen is this, there will be in Trinidad and Tobago, people who will indicate that my property that I accumulated via frugality, it is impossible to accumulate property without having a

good bit of postponement of consumption, they were favourite property owner in Trinidad and Tobago, has been frugal, and he would ask himself, why should I use the fruits of my frugality to finance the hole that is in Government, based upon Government's misuse of funds? As Sen. Shrikissoon has indicated. This is where the resentment will lie, because you are using a tax that is derived only because people were frugal. You see, and income tax is not because people were frugal, the expenditure to—

**Madam President:** Yes, Sen. Mahabir, I also now have to caution you a little bit, because you have dealt with certain aspects of the Bill, you are sort of going off a little bit, and I need you to be a “lil” more focused on the Bill.

**Sen. Dr. D. Mahabir:** Thank you, Madam President, let me be focused on the Bill. And, again, I want to focus on the piloting of the hon. Minister of Finance, and this is where the hon. Minister of Finance indicated that a pensioner just means you have retired from employment. Well, that is the definition of the pensioner. That does not by any means mean that the pensioner is someone of means. And I want to challenge the assertion that the pensioner in Trinidad and Tobago is necessarily someone of means.

Madam President, let us take a pensioner who is retiring in 2018. When was he born? He was born 1958. When did that pensioner graduate? And I am not talking about a pensioner who is working for minimum wage. A pensioner who went to UWI. He graduated around 1982. When he graduated in 1982 he got a job. We were buoyant at the time. But you know what happened three years later? Three years later this particular employee faced a 10 per cent cut in his salary—1987, structural adjustment. And, not only did he face a 10 per cent cut in salary—this is economic history—this particular pensioner was also denied his COLA. The Minister of Labour and Small Enterprise Development will attest that I am not

fabricating this. That he lost his COLA and that COLA was repaid only around the year 2000. Public officers were denied. No, she does not know, but public officers were denied. The last time there was a restitution was in 2000.

Where am I getting, Madam President? I am getting to the point where the Minister of Finance, the Minister in the Ministry of Finance, said that the pensioner just means you have retired from employment. But we need to be looking—you see a tax must not only be efficient, it must also be equitable. This particular pensioner, who has faced a cut in salary would have attempted to obtain a property come the 2000s. Late 2000s property prices rose, interest rates rose, I am asking, come 2018 when he is retired, how many of these pensioners would say, “well, I have just retired from employment, I am a person of means”? I would be very surprised if many of these people, retiring in 2018, are people with a significant savings account. They may be waiting—if that is so, Madam President, we would not be so concerned with the Comptroller of Accounts taking three years to pay gratuities. So that, we have to be concerned about individuals who are retired.

Madam President, the concern I have about the retired population is this. And if I were into electoral politics, and I am not, though I may get there. I am not. *[Interruption]* Yes, I may get there. I am toying with the idea. *[Laughter]* And I see Sen. Khan with consternation in his face. Madam President, that is just tongue in cheek. But really—

**Sen. Khan:** You know—*[Inaudible]* *[Laughter]*

**Sen. Dr. D. Mahabir:** Independent Tunapuna. Independent Tunapuna, 20:20:1, that could make a nice dynamic. *[Laughter]*

But, Madam President, let me get back to the debate. Enough fun. I mean, we need to lighten the mood a bit. But the reality is this, when we look at the equity aspects of a tax—and I would have thought that the amendment would have

addressed this as well. We are seeing from now until 2048 some 30,000 persons entering the 60-plus pool. They are living longer. By 2048 it is estimated that the over-60 may very well be half of our population. It is a pool that is growing in number. What is happening is basically this, having lived and so on, all their lives and they are now retired, they are using less local services, producing less garbage. They may have a big house empty. Their children have grown, and their children have gone. In Trinidad and Tobago we do not sell properties the way it is done in another jurisdiction with a large amount. People tend to remain.

Without an independent Rent Assessment Board, you see, their properties may be assessed based upon the number of rooms and so on that they have, and they are not generating the kinds of pressures on local services as, say, a family of four with young children. My own position is, given that the economic environment for the worker retiring today may not have been the most buoyant one, I think we should give serious consideration for levying a tax—and I would have liked to see this in the amendment—a tax for the 60-plus group of 1 per cent as opposed to the 3 per cent. And that is the residential group. Why do I say this? I say this, Madam President, because, by far, it may very well be that the Minister is right. You may find some pensioners who have retired very well, but you may find that 99 per cent of them may just be struggling. And Sen. Hosein made a very valuable point in his contribution in the former debate. We will have to pay—everyone will now have to be prepared to pay a higher WASA rate. This particular Bill here is going to immediately influence WASA's rate base. So that WASA may not have to go to the Regulated Industries Commission to get any rate increase. This particular Act will do it for WASA. So, we are going to get an increase in the water rates to the retiree, although, you see, this is where the inequity arises. His children have grown—

**Madam President:** Sen. Mahabir, I really need to understand where you are at. I think you are dealing, in essence, I may be wrong, with clause 12, and what the Minister had said in her presentation, but while you are dealing with it we need to be a little more specific. Okay?

**Sen. Dr. D. Mahabir:** Thank you very much, Madam President. I have tabled one amendment I wanted, and I have spoken to that. I wanted this particular tax to be allocated where it should go, where it has gone in all the 180 jurisdictions in the world. I do not want us to be in any way out of the loop with respect to the efficiency. But, I am looking at equity concerns. As I thought, the amendment was not complete. Maybe I should put another amendment that with respect to retirees, because I am well within my right to propose a second amendment with respect to retirees, I am proposing, based upon the arguments I have advanced, that they are going to have properties which are not going to—and it comes from the first amendment—impose much by way of work on social services at the local level, that Government gives consideration to a 1 per cent tax on the 60-plus population.

I think, once we do the two things: Once we allocate the tax to local government, and Minister Khan has indicated that that will come, and once we can look at the fact that the retirees may have huge homes, and less pressure on social services, and we give consideration to a 1 per cent, I think the tax shall be more palatable. If we do not do that, there can be, as the Minister indicated, if we forget, let us see what exactly he had indicated to us, that if we forget, as she said, to forget is the same as to throw away. Let us not throw away the memory, and we have a good chance to get it right, but if we do not do that which is right, we will get it wrong.

Thank you very much, Madam President. [*Desk thumping*]

**The Parliamentary Secretary in the Ministry of Agriculture, Land and Fisheries (Sen. Avinash Singh):** Thank you, Madam President, and good night at 8.16 p.m. Madam President, it is a pleasure to join this debate at this point in time on a Bill I am sure that has taken, you know, a lot of emotions from most of the Members who would have contributed so far. In some instance Sen. Mark, well, I do not want to say anything further to his contribution. But I would respond to a couple of statements and comments he would have made

Again, Madam President, thank you for the opportunity to contribute on this Bill entitled, an Act to amend the Property Tax Act, Chap. 76:04. Madam President, I am not going to take my 40 minutes, because a lot of what has been said in this debate, we would find ourselves repeating in due course. And I am going to spend a couple minutes speaking about the structure of the tax, the impact on agriculture. Of course, agriculture goes hand in hand with land, and land, this whole Bill is dealing with property, and as we are all aware, the Bill that we would have debated earlier and completed would have set the tone for this Property Tax Bill.

I would go briefly in terms of some of the contents of the Bill, and then I would end my contribution with some of the work that is required in the land administration, in the whole way in which the Ministry of Agriculture, Land and Fisheries deals with land and the land administration. Madam President, Sen. Mark in his contribution earlier, he paid particular attention—I paid particular attention to some of the statements he would have made. And these statements regarding what the UNC would have done while they were in Government, because a lot of his contribution were a lot of song and dance in terms of caring for the people, and this property tax is going to significantly trample on the rights of citizens and so on. Madam President, Sen. Mark spent a lot of his time

complaining about the fact that the UNC supported the land and building taxes legislation, and he made some statements, he indicated during his contribution regarding the UNC, this is what we are doing when we were there. He indicated, we were moving to do—some items they were moving to do when they were there, when the UNC was in office, and he indicated that they did not get to revise the legislation.

Madam President, the record of the United National Congress in Government, I want to share with this honourable House and all those looking on, this is the record of the UNC which loves the land and building taxes. The land and building taxes was enacted in 2020, and this is the same land and building tax we are talking about, the UNC is holding so dear to its chest. That is some 98 years ago. The Act has been amended 16 times, Madam President. The UNC has amended that Act one time in 1996. So, in 98 years, one time, the United National Congress has touched that Act. Let us see what they did from June 2010 to June 2015? The United National Congress introduced the Land and Building Taxes Bill in 2011; 18<sup>th</sup> of February, 2011. That Bill lapsed on June 17, 2011. And after June 2011, the United National Congress introduced 110 Bills. One hundred and 10 pieces of legislation in this and the other place. Not one, not a single Bill dealt with land and building taxes, but they claim here today that they are in love with land and building taxes. Not one! Madam President, what was Sen. Mark speaking of? What does he mean by, we are in support of the land and building taxes legislation. This is what we are doing when we were there. These were his statements. We were moving to do that when we were there. We did not get to revise the legislation.

Madam President, for four years the United National Congress did absolutely nothing about land and building taxes, or property taxes. Zero! Nada!

Zilch! Nought! Absolutely nothing. And so today, Madam President, it is this administration, the People's National Movement, that must bring legislation [*Desk thumping*] to further modernize the system of property taxes in this country. And I have said it over and over again, property tax is an issue that sparks a lot of debate and, Madam President—[*Crosstalk*]

**Madam President:** Members, I would really like to listen to Sen. Singh, and I am being distracted by Members on both sides, so would you please desist. Sen. Singh, continue.

**Sen. A. Singh:** Thank you, Madam President. Madam President, when we come here in this august Chamber and we paint the picture to those who are looking on, we paint the picture that we so care. The United National Congress should be the last political party talking about land and building taxes in this country. But, we all know where Sen. Mark, his contribution went, out the door.

Madam President, let me go to the structure of the taxes and what we intend to propose. And, what we are proposing in this Bill, the taxes in my opinion are uniformed, it is based on property type, residential. We all know 3 per cent, commercial 5 per cent, industrial plant and machinery household in a building 6 per cent, plant and machinery not in a building 3 per cent, and I want to stick here a pin, Madam President, agriculture 1 per cent. Madam President, as we have noted on the existing legislation, the whole situation of equity when it comes to agriculture across the board, we are proposing 1 per cent, and I will go to the extent of giving an example of the calculation. But more than that, I want to applaud this Government, that I am a part of, in significantly contributing to the agricultural sector, and by so doing, respecting farmers [*Desk thumping*] to the extent of telling these farmers that we respect your business of operation.

And, let me declare I am a farmer in my different incarnation, but that is

where the mind, that is where the vision, that is where the efforts are with respect to putting the respect for farmers in this country by that 1 per cent. And I did say I will give an example. When you compare the whole scenarios with residential, commercial, agricultural, Madam President, as reported in the other place, it is—and it can be compared with a graduated scale going up in terms of economic value, and then when we come down to agriculture it goes down. Because, Madam President, any right-thinking Government would certainly want to encourage the agricultural sector, and encourage agriculture on the whole.

And I would use the example, Madam President, of most rental value for agricultural property. So, farmers looking on would have no fear in understanding what this Bill means to them. And, Madam President, throughout most leases, land tenure documents, you would understand that agricultural property on the rental value is approximately \$400 per acre. And when you do the maths, the simple mathematics with respect to putting that 1 per cent tax on \$400, it comes down to a mere \$4 per acre, per annum, and that is not taking into consideration the percentage that we would have to apply on a subsequent occasion, like the property tax for residential, where it is 10 per cent, the 3 per cent of the annual rental value, and then you minus the 10 per cent for any variations and so on.

Madam President, it can even go under that \$4 per acre, per year, in terms of what an agriculturalist or agricultural sector would have to pay for the taxes for agricultural land. Madam President, let me go further, and I want to move to some elements of the Property Tax (Amdt.) Bill. And it is clear, 25 clauses. It deals with the property tax working hand in hand with the amendment we would have made earlier with the Valuation of Land (Amdt.) Bill. It deals with taxes to be collected every year, and I would spend a few minutes with respect to that. It deals with taxes on condos, town houses, apartments, I would spend a few minutes with

that. It deals with objections, penalties and exemptions. So, you when you look to the intention of this Bill, the intention of this Bill while most of the clauses in this Bill are to clean up some legislation, and make this Bill more palatable and understandable to most.

Madam President, clause 4 of the Bill would indicate that the taxes would have to be collected every year, and connected with this clause 17, would ensure that the timing of which the taxes have to be collected is in line with the financial year of any government, whether it be this one or the other, so the dates would change from the 31<sup>st</sup> of December to the 30<sup>th</sup> of September, of the financial year, which is in line with the way we would like to see this tax go. Madam President, the whole issue of clause 3 in terms of dealing with town houses, condos, apartments and so on, in this changing era we have to be innovative. We have to change the way we build. In some cases land is limited. In most cases. In fact, land is limited, and in some communities you can go up for maximization of space, and put in good use to land to get the most of it. And this clause here deals with that, with respect to the changing times. Madam President, we look to the exemptions in clause 6, and these exemptions, while most, as I said earlier, are to clean up some of the duplication in the Bill. I want to pay attention to the exemptions of incorporated charitable institutions. It would read as follows:

A charity exempted from corporation tax under the Corporation Tax Act for approved charitable purposes.

And this will make it consistent with modern law. And in adding a new paragraph (f), we want to place where tertiary education facilities, as the example, is used. For taxes will be applying to these facilities, but they must be in occupation of these facilities doing these activities. Because sometimes you would find property being named as institution and, you know, they may not be doing the

activities related to these things. So, this is just to clean up some of the legislative words and so on, Madam President.

Clause 3, as I indicated, that dealt with town houses and so on. Clause 10 amends section 21, and this deals with the objections in terms of having the Valuation of Land Act work hand in hand together with the Property Tax Act, and, that is almost self-explanatory. When we move now to—I want to move to clause 12, because a lot of Senators who would have spoken earlier, you know, spend some level of time trying to defend the fact that we are not caring, and we are not concerned about persons who cannot afford, and all of that. But clearly, clause 12 takes care of most of the concerns of Members in this august Chamber. Because it offers that level of comfort and relief, where persons who feel that they cannot afford the property tax and so on, can make that application. I would go as far as saying, an example, pensioners, elderly couples, if they cannot pay this it would be reviewed and, of course, in the interest of the State, it would have to be reviewed every two years to see the position of these persons, or the persons apply for these exemptions. Because, let us just say somebody who could not afford it passes away, passes that property to somebody who could afford, the State would be required to intervene and collect the necessary taxes.

Madam President, let us move to clause 24. Again, exemptions to certain state agencies, and again it is self-explanatory, and with the schedules listed, I want to spend some time now—when persons earlier, Sen. Mahabir, Sen. Ameen would have spoken to squatting and squatter regularization, I want to spend two minutes and just deal with that and put that to rest. Because, of course, it is a question asked by many in society, if squatting is illegal how do we deal with that? But I would just turn to the State Land (Regularisation of Tenure) Act, 25 of 1998, and that would give some level of articulation and relief to persons who would have

been in occupation of land all over this country, and one simply has to turn to the first report on the Joint Select Committee on Land and Physical Infrastructure. Because, in that Joint Select Committee, most of the concerns that Members raised here were well ventilated, and responses given.

I would just share some of the responses to answer some of the questions that Members had here today. And, Madam President, a comprehensive social survey was done in this country, and in that, as of 2012, approximately 23,000 squatters applied for land regularization under this Act. Of course, Madam President, the law is very clear, because it deals with residences or dwellings constructed and completed before January 01, 1998. So that already gives some level of interpretation to the law where persons deemed as being squatters are taken care of. And, Madam President, if you were to put a value to that in terms of numbers, as of the 7<sup>th</sup> of June, 2016, an estimated 55,000 families, or over 200,000 persons were identified in that report.

**8.30 p.m.**

And I want to indicate that the Ministry of Agriculture, Land and Fisheries has done a site-profiling exercise which was conducted by the LSA and this revealed 45,850 structures built by persons, of which 34,865 were residential with the remainder being foundation or sheds, and so on, in some 251 sites with sites being added all—even after that, Madam President.

So persons who have fear of that document that they received called a certificate of comfort or persons waiting on a certificate of comfort, all of that, Madam President, leads to my next point in terms of what is the Ministry of Agriculture, Land and Fisheries doing and what we are, you know, what we are doing about the challenges faced by a number of issues, by mostly the state agencies who have to deal with land and the whole issue of valuation and property.

And when you look at Trinidad and Tobago, for those who do not know, Madam President, this country, a general breakdown of land is as follows. Most of us would be aware that the total land acreage size in this country is around 512,600 hectares and 52 per cent of that is owned by the State. We all know Caroni (1975) Limited, 31,567 hectares, forest reserve—and I will tell you why I am quoting these figures—because it deals directly with the impact of the Ministry of Agriculture, Land and Fisheries having to manage these assets, having to manage and streamline all land matters in this country so that property tax and all similar taxes can be applied.

Madam President, as I go on, forest reserve and other protected areas, 167,585 hectares; land allocated for agricultural purposes, and by this, Madam President, I mean areas like Carlsen Field, Wallerfield and so on, 29,863 hectares; land allocated to state-owned companies and authorities, 37,717 hectares. This is the breakdown of land. Of course, simple maths, you minus all of this—what I just called out—from the total numbers and then you would find some portions of private property and so on. So figures are already available for land acreages and land distributions in this country and I would get to some of what we are doing in the Ministry, Madam President.

Of course there are challenges in dealing with land management and property management in this country and one major challenge that comes to my mind, Madam President, is the fragmentation of responsibilities in this country. Madam President, there are 10 agencies, some seven Ministries that have to deal with land. And these, let me give you some examples so you would understand how broad and how spread the whole issue of land management in this country is:

- Town and Country Planning Division, Madam President, they deal

with land use and development control;

- Lands and Surveys, now separated into Surveying and Mapping Divisions of the Ministry of Agriculture, Land and Fisheries;
- Valuations Division;
- Ministry of the Attorney General and Legal Affairs, Chief State Solicitor, the execution of leases on behalf of the State and the Registrar General, registration of leases, maintenance of land registry;
- Ministry of Housing Development Corporation (HDC), management and administration of lands allocated for housing settlements;
- Ministry of Trade and Industry manages industrial estates;
- Ministry of Agriculture, Land and Fisheries, of course forested lands and all lands belonging to the State;
- The Sugar Industry Labour Welfare Committee, settlements for sugar workers and cane farmers;
- the Commissioner of State Lands;
- Ministry of Public Administration and Communications, Property and Real Estate Services Division;
- Ministry of Works and Transport, highways, major roads development;
- Ministry of Energy and Energy Industries, allocation and management of mining leases;
- The Tobago House of Assembly, all lands belonging to the State in Tobago;
- EMA, Environmental Management Agency, environmental/ecological management and control;

- The Land Settlement Agency, regularization as I indicated earlier of all pre-1998 state land residential squatters, persons holding Certificate of Comforts, Statutory Leases and Deed of Leases and relocation of squatters from environmentally sensitive area.

And, Madam President, when you go down you have Caroni; you have Palo Seco Agricultural Enterprises; Chaguaramas Development Authority; Port Authority—all these agencies, fragmented as they are, having to deal with land management in this country and what are we doing at the Ministry of Agriculture, Land and Fisheries under the astute leadership of my colleague Sen. The Hon. Clarence Rambharat, Madam President, as I indicated on many occasions, who has had to spend some long nights, even late into the night dealing with land matters and trying to streamline—

**Sen. S. Hosein:** Madam President, I do not want to do this, but Standing Order 46(1), could the Senator refer to some clause in the Bill, please.

**Sen. Ameen:** What clause is Rambharat under? “Come nah man”. Rambharat “ha nutten” to do with—

**Madam President:** Sen Ameen, you want to rule on the Standing Order or you would allow me to—

**Sen. Ameen:** Not at all, not at all.

**Madam President:** Sen. Singh, you started off by relating what you were saying to the Bill. Can you please be a little more focused on the Bill please?

**Sen. A. Singh:** Sure, Madam President, thank you. Madam President, as I indicated, this whole Property Tax Bill deals with land and you cannot be clear enough if you do not have proper land administration in Trinidad and Tobago to effectively put this land tax into use. Because as the Bill calls for persons

occupying state land, not having or not being the owners of certain parcels, we have to get the management of the whole land in Trinidad, land portfolio, right. And by clearing some of the problems in persons' mind about how the Ministry of Agriculture, Land and Fisheries is dealing with state land to effect property tax, that will in a sense clear a lot of questions being asked. In fact, [*Crosstalk*] where—

**Madam President:** Senator, please take your seat. Members please, I really do not want to have to caution you after this. Continue Sen. Singh.

**Sen. A. Singh:** Thank you, Madam President. Madam President, as I indicated, land in this country is limited and the resource has to be managed, and this Bill coming from the last one that we would have approved earlier, tying into the property tax, the country dealing with state land, because, of course, property tax deals with state land, private property, I am specifically dealing with state land in this country and how as a Government through this property tax we are going to streamline to be effectively in dealing with land leases and collecting revenue in terms of leases and taxes.

Madam President, in terms of the management of the property tax where state land is concerned and again I turn to the whole structure of the 1 per cent and the impact on the agricultural sector where 1 per cent will be charged.

**Sen. Rambharat:** Clause 4.

**Sen. A. Singh:** And clause 4 as my colleague indicated. [*Laughter*]

**Sen. Ameen:** “Boy”, that is not what clause 4 is about. “Doh” let them mislead you.

**Sen. A. Singh:** Madam President—[*Laughter*]

**Sen. Cummings:** That is a fish market down there.

**Sen. A. Singh:** Madam President, the Land Management System of the Ministry

of Agriculture, Land and Fisheries—[*Crosstalk*]

**Sen. Ameen:** You all embarrassing “de man”.

**Sen. A. Singh:** In 2017, Madam President, \$6.9 million was used to put in place an effective land management system called an Electronic Document Management System. What this does for this Bill is to streamline all data relating to land that could be used by the Property Tax Act in dealing with the proper taxation, the proper identification to charge that 1 per cent.

Madam President, this also involved the computerization of the information stored at the Ministry where all land leases are concerned, where all documents are concerned. We also looked to the Land Information System of Trinidad and Tobago that was disbanded by the last administration in 2011. And maybe they understand why, because as we came in office, Madam President, the entire land portfolio as we all know was in a mess. It was scattered as I indicated earlier and we are now putting back systems like the Cadastral Management Information Systems and, Madam President, what this would do for persons who have fears about where they are located if they would be charged different rates and so on, the Cadastral Management Information System will be used by the Government, will be used by state agencies to identify the maps associated with land so that they could assist in the land information and land management. That is what the People’s National Movement Government is doing. This was launched in 2016 by the Surveys and Mapping Division.

Madam President, we also intend to develop a national agricultural information system to enable the Ministry of Agriculture, Land and Fisheries and all the divisions to share data and this is very important, where all the data that I have just identified in the fragmentation of land management, all this data is going to be placed on one platform so that when we effect the property tax it will give us

a clear picture, a clear identification of how to deal and how to charge—  
[*Crosstalk*]*—persons in the agriculture sector.*

**Madam President:** Senator, please have a seat. Sen. Ramdeen—

**Sen. Ramdeen:** Sorry, sorry, sorry.

**Madam President:** Please, the Senator's contribution is directly related to some of the issues that were raised by—

**Sen. Ameen:** "Oooh."

**Madam President:** Sen. Ameen, you, yes, you asked about the ability, so please listen to what the Senator is saying.

**Sen. A. Singh:** Thank you so much, Madam President, for that clarification. I mean, since I have started it is all land I am speaking about. And this Bill is a land Bill. And they asked the questions, Madam President, and I am putting most of the questions to rest that even Sen. Mark raised in his contribution in speaking to this Bill.

Madam President, so, as I have said earlier in my contribution, I want to place on record that the agricultural sector really should take this Property Tax Bill and run with it because at end of the day we care about the agricultural sector and had it been for the land and building taxes under the UNC style, Madam President, where 10 per cent was attributed to agricultural land, certainly, that could tell you where they were thinking and where they were heading.

So, Madam President, as I indicated, my contribution was going to be pointed and very, very, brief in terms of my arguments that dealt with what we are doing at the Ministry and I want to say that this property tax, this amendment Bill is very focused. It is time that we as a nation understand, times have changed and it is not business as usual. This country is in a situation now where we have forgone over \$1 billion from land and property taxes and most Senators in almost

every contribution asked this Government for a disciplined approach, in terms of balancing our budgets. And this is one measure that we are demonstrating some discipline, notwithstanding the popularity of the decision, Madam President, because that is what a responsible Government will do for the people of this country. Thank you. [*Desk thumping*]

**Sen. Ramdeen:** Put him to rest, put him to rest.

**Sen. Taharqa Obika:** Thank you, Madam President. As usual I always wait with great anticipation in times to contribute to any Bill that will redound to the benefit of Trinidad and Tobago. And there is a saying in this country that goes, “basket doh hold water”. Just like this PNM property tax we want the people of Trinidad and Tobago to know that it will hold no water and we will not stand by [*Desk thumping*] and allow this tax to be sent down the throats of the people of this country. But I want to begin by, because the amendment makes for some interesting reading, Madam President, and there is a very interesting clause that starts with clause 4 and it reads as follows:

“Section 10 of the Act is amended by inserting after the word ‘2010’ the words ‘and for the 1st of January of every subsequent year thereafter’.”

So I am not sure which Bill the hon. Senator was speaking to before, Sen. Singh. However, when he mentioned a 1 per cent, I am not sure it is the 1 per cent that supports the PNM that he was talking about. [*Desk thumping*] So I just want to remind Sen. Singh that the basket really and truly does not hold water.

**Sen. S. Hosein:** “He own friend set him up.”

**Sen. T. Obika:** So I would like to turn to another clause in the Bill, Madam President. This would be clause 9 according to the Bill Essentials. And the proposed new section states:

“Where there is a change or variation in the information in the possession of

the Board in respect of land for which tax liability has been imposed, the Board shall forthwith amend the assessment roll and issue a new notice of assessment under Section 17.”

Not to run afoul of Standing Orders, Madam President, I just want to remind persons of the issues we had regarding the different measures available to the Valuation Tribunal to arrive at a valuation to support the basis of the tax of a particular property. And we debated with much tribulation the issues regarding which measure would be the final and the superior measure. However, we note that the tribunal can use, well, the Commissioner, sorry, can use any measure that he or she deems fit. So therefore, given that this clause 9 of the Bill, not 4, [*Laughter*] basically mentions a change and a variation of the information and we are worried about the method by which this Commissioner may decide or arrive at the final base for tax for a particular property. It shows the level of injustice that could be meted out to the people of Trinidad and Tobago by this particular clause and by the Bill in general.

Now, having addressed that particular issue which colours my entire contribution, the ad hoc nature of this tax and the ad hoc nature of taxation under this current incarnation of the PNM, under the Member for, I believe it is Diego Martin West, Member of Parliament, Dr. Keith Christopher Rowley. It is a very sad day for me to be here to be bringing to the people of Trinidad and Tobago these concerns. However I must. So as I mentioned clause 9 and the ability for some ad hoc measure or measures to be taken regarding your valuation, we must take into consideration the environment of taxation that befalls Trinidad and Tobago.

And I want to begin my substantive contribution with that, the environment of taxation, Madam President. The property tax must be seen against that

background, because we are approaching three years of this Government's time in office. I cannot be saying two years and eight months and that kind of—two years and nine months and that kind of—so we are approaching three years of this Government's time in office—

**Sen. Ameen:** Total incompetence.

**Madam President:** Sen. Ameen.

**Sen. Ameen:** Sorry, sorry, I did not mean—sorry.

**Sen. Khan:** “You wouldn't get to sit down on that chair again”.

**Sen. T. Obika:** And whilst the interjection actually befits the measures that are being imposed—the first one—an increase in the Green Fund tax, same for business levy. Unemployment—5 per cent increase in corporation tax, 10 per cent increase for banks, 1 per cent increase on profit tax—sorry, that is typo, a tax regarding VAT. We all know that with 12½ per cent applies to all goods as opposed to what obtained before where there were some VAT-exempt goods. So the property tax and also an increase in fuel, in diesel doubling from \$1.70 to \$3.41—so therefore, the increase in diesel definitely will be felt on the distribution sector and the companies that operate in that sector; and now comes the property tax.

So the property tax is not an isolated measure and at the present time it is too severe a tax to impose on the population. [*Desk thumping*] There needs to be greater clarity in how the tax is arrived at and how it shall be determined. And the property under industrial, such as plant and equipment, also the issues around that need to be clarified. I was reading an article from today's *Guardian* by Nadaleen Singh, page 6 of the *Business Guardian*, where Christopher Alcazar, the President of the T&T Manufacturers' Association laments and I would like to quote, Madam President, with your permission:

“With all due respect to the different things that the Government is doing—raising taxes, removing subsidy, having problems with border control, having problems with the port, the Chemistry Food and Drug Administration—all of these things do not create an environment that really helps us to grow...”

And he concluded also, because:

“We collect VAT when we sell a product, so you are talking about a process where we have paid VAT in the port and we have paid because we are selling the product. We have paid all this money to the VAT office and what a manufacturer genuinely has is a VAT return as a result...

Because they are using the consolidated fund”—that is the—“BIR...office says, ‘we don’t have money to give you back your money’.”

So their working capital is now tied up in these VAT returns regarding the VAT office and the VAT office is lamenting that it has gone to Corporation Sole, it has gone somewhere they have no control of. The reality is whither the property tax—the same fate shall befall it.

So therefore, you would be in an area where the Government is not providing you with simple things such as fire hydrants. So if your house is on fire and you are living in La Lune, Marac, you are living in Icacos, you are living in Matura or Matelot, you do not have to wait two hours for an appliance to come from the fire station that might be in Sangre Grande or that might be in Point Fortin or Princes Town as the case may be. Because the property tax, again, I want to echo the sentiments of the Coordinator of the Independent Bench Sen. Dr. Mahabir, where local government reform should be the first step before you introduce any changes in the taxation regime regarding land and buildings in this country. [*Desk thumping*]

So clearly, this Government has put the proverbial cart before the horse. And even in the Bill that we debated prior, it is not concerned with having a full picture—well once 50 per cent of the valuations are done everything is hunky-dory and it is okay.

Now, when you look at the measure to increase the property tax, Madam President, it really shows you some grave issues; \$253million is the target for 2018. I have heard many figures, but when I look at as a trained economist I go to the documents presented and prepared by the Ministry of Finance and based on that 2018 estimate it is \$253million is expected to be generated from taxes on property in Trinidad and Tobago. In 2017 they estimated double that, \$503 million.

However, if you look at the contribution from the Minister in the Ministry of Finance, that would be Minister Allyson West, the Minister indicated that half a billion plus in tax should be obtained from the 700,000-plus properties. Now, really and truly I am not sure if the Minister is privy to the process by which the Appropriation Bill was prepared but what the Minister is saying is totally at odds with what is prepared by the Ministry of Finance. I think the Minister needs to check her facts and get it right before making misstatements in the Parliament.

Now, \$253 million—I think we are finishing at nine o'clock, so what I will do is wait for the bell to ring [*Crosstalk*] because it is only 10 seconds remaining and the next time I rise I will show how that statement by the Minister is at sea and definitely does not hold water. Thank you very much.

#### **ADJOURNMENT**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that this Senate do now adjourn to Tuesday the 1<sup>st</sup> of May, 2018, at 1.30 p.m. During that sitting we plan to complete

the debate on the Property Tax (Amdt.) Bill.

I just want to put the Senate on notice that we will meet again on Thursday the 3<sup>rd</sup> of May at 2.00 p.m., where, hopefully we would have completed the Property Tax (Amdt.) Bill by then and we will proceed to the Insurance Bill. Thank you.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 9.00 p.m.*