

SENATE

Friday, May 11, 2018

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]



LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. Stephen Creese and Sen. Gerald Ramdeen, both of whom are out of the country.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MR. ELTON PRESCOTT, S.C.

WHEREAS Senator Stephen Creese is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ELTON PRESCOTT, S.C., attorney at law,

to be temporarily a member of the Senate with effect from 11th May, 2018 and continuing during the absence from Trinidad and Tobago of Senator Stephen Creese.

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 9th day of May, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

/s/ Paula-Mae Weekes
President.

TO: MR. ELI ZAKOUR

WHEREAS Senator GERALD RAMDEEN is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, ELI ZAKOUR to be temporarily a member of the Senate, with effect from 11th May, 2018 and continuing during the absence from Trinidad and Tobago of Senator Gerald Ramdeen.

UNREVISED

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 11th day of May, 2018.”

OATH OF ALLEGIANCE

Senators Elton Prescott SC and Eli Zakour took and subscribed the Oath of allegiance as required by law.

FINANCE (SUPPLEMENTATION AND VARIATION OF APPROPRIATION) (FINANCIAL YEAR 2018) BILL, 2018

Bill to supplement and vary the appropriation of the sum the issue of which was authorized by the Appropriation (Financial Year 2018) Act, 2017, brought from the House of Representatives [*The Minister of Finance*]; read the first time.

Motion made: That the next stage be taken on Tuesday, May 15, 2018.
[*Hon. A. West*]

Question put and agreed to.

PAPERS LAID

1. Audited Consolidated Financial Statements of the Trinidad and Tobago Bureau of Standards for the year ended September 30, 2014. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
2. Audited Unconsolidated Financial Statements of the Trinidad and Tobago Bureau of Standards for the year ended September 30, 2014. [*Sen. The Hon. P. Gopee-Scoon*]
3. Annual Audited Financial Statements of Union Estate Electricity Generation Company Limited for the year ended December 31, 2016. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]

4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro/Rio Claro Regional Corporation for the year ended September 30, 2006. [*Sen. The Hon. A. West*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the Chaguanas Borough Corporation for the year ended September 30, 2014. [*Sen. The Hon. A. West*]
6. Ministerial Response of the Ministry of Social Development and Family Services to the Second Report of the Joint Select Committee on Social Services and Public Administration, Second Session (2016/2017), Eleventh Parliament on an inquiry into the effectiveness of the State's interventions directed at Socially Displaced Persons in Trinidad and Tobago. [*The Minister of Energy and Energy Industries [Sen. The Hon. F. Khan]*]
7. Annual Report of the Police Complaints Authority for the period October 01, 2016 to September 30, 2017. [*Sen. The Hon. F. Khan*]
8. Response of the Service Commissions Department to the Sixth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA), Second Session (2016/2017), Eleventh Parliament on an Inquiry into the Efficiency and Effectiveness of the Teaching Service Commission (TSC). [*Sen. The Hon. F. Khan*]
9. Ministerial Response of the Ministry of Health to the Second Report of the Joint Select Committee on Social Services and Public Administration, Second Session (2016/2017), Eleventh Parliament on an inquiry into the Effectiveness of the State's interventions directed at Socially Displaced Persons in Trinidad and Tobago. [*Sen. The Hon. F. Khan*]
10. Ministerial Response of the Ministry of National Security to the Sixth Report of the Joint Select Committee on Human Rights, Equality and

Diversity, Third Session (2017/2018), Eleventh Parliament on an Examination of the Impact on Mental Health and Family Life of Remandees at the Remand Prisons. [*Sen. The Hon. F. Khan*]

**PUBLIC ACCOUNTS COMMITTEE REPORTS
(PRESENTATION)**

Sen. Taharqa Obika: Madam President, I have the honour to present the following reports as listed on the Supplemental Order Paper in my name:

Water and Sewerage Authority of Trinidad and Tobago

Fifteenth Report of the Public Accounts Committee, Third Session (2017/2018), Eleventh Parliament on the Examination of the Audited Financial Statements of the Water and Sewerage Authority of Trinidad and Tobago (WASA) for the years 2008 to 2013.

Trinidad and Tobago Electricity Commission

Sixteenth Report of the Public Accounts Committee, Third Session (2017/2018), Eleventh Parliament on the Examination of the Audited Financial Statements of the Trinidad and Tobago Electricity Commission (T&TEC) for the years 2012 to 2015.

URGENT QUESTION

**Egypt Government Primary School
(Addressing of Issues)**

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Education: What steps are being taken to address the issue of a defective sewer system and asbestos fragments on the compound of the Egypt Government Primary School, Point Fortin?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam President. The Ministry of Education is in possession of a bill of quantities for the repair of the sewer system and work will commence within the

month.

In December 2017, that is the answer to the second part, the Ministry of Education was advised that an abandoned government quarters situated close to the school had caught fire, and that the building was covered with asbestos sheeting. The burnt sheeting can pose a hazard to the school population. The Ministry of Education is in consultation with SWMCOL to provide technical assistance—let me say that again—to provide technical assistance to remove the asbestos from the site. This matter is ongoing. Thank you.

Sen. Mark: Thank you, Madam President. Hon. Minister, in the light of the danger to the students' health and well-being, could you advise this Senate what urgent steps, or when will this technical assistance be rendered in order to have whatever is threatening the health of these students addressed?

Hon. A. Garcia: Thank you very much, Madam President. The Ministry of Education, not having the requisite expertise, contacted SWMCOL soon after that information was brought to our attention. In fact, on two occasions soon after the fire occurred, we contacted SWMCOL. SWMCOL, I must say, was slow to respond, and we have been in contact with SWMCOL almost on a daily basis. We have been assured by SWMCOL that they are going to provide the necessary technical advice and expertise so that the burnt asbestos sheeting can be removed as quickly as possible.

May I add that the removal of asbestos sheeting is something that cannot be done by an amateur. It involves and it needs the expertise or experts to do that so that those who are engaged in the removal of the asbestos will not suffer any unpleasant circumstances. Thank you.

Sen. Mark: Could the hon. Minister indicate to us how soon, given the—let me just rephrase that, Madam President. As it relates to the defective sewer system

which has been impacting and affecting these pupils or students for some time now, can the Minister give this Senate the assurance that this matter will be addressed with some degree of expedition, having regard to the defective sewer system that has been there for some time now?

Hon. A. Garcia: I would prefer Sen. Mark use the word “urgency” instead of “expedition”. “Expedition” gives a different connotation. Anyway, let me state that the information that is available to me tells me that the students are not in immediate danger. In fact, only this morning I was told by persons in our department that what has caused the concern is that there is some light that is associated with the system, and when that light goes on it will give the impression that something is wrong, that there might be a choke.

So we have the bill of quantities; we are going to effect repairs, but it does not pose an imminent danger. But, it will be done with dispatch. Thank you very much.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Affairs (Sen. The Hon. Franklin Khan): Madam President, the Government is pleased to announce that we will be answering all Questions on Notice, save and except question 111.

Cabo Star (Overcrowding on)

104. Sen. Wade Mark asked the hon. Minister of Works and Infrastructure:

Given reports that passengers on the *Cabo Star* have been experiencing discomfort as a result of the vessel being overly crowded, can the Minister indicate what systems are in place to ensure that the safety of passengers and crew members is not compromised?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Madam President, the roll on/roll off cargo ferry, the *MV Cabo Star* is certified to

transport 100 passengers and has cargo space for approximately 300 commercial vehicles. The vessel is equipped with 19 crew cabins, 12 passenger cabins, each containing four bulk beds which passengers can reserve on board on the date of sailing. On deck four, the passenger common area facilities include a seating lounge outfitted with a big screen television, food and beverage cafeteria.

Statistics from July 24, 2017, to March 31, 2018, showed that the *Cabo Star* transported 29,267 passengers with a total of 392 trips for that period, at an average of 75 passengers per trip. Likewise 49,122 vehicles were transported, with an average of 125 vehicles per trip on the sea bridge.

While there may have been an increase in the number of passengers transported on the *Cabo Star* over the period January to March 2018, the vessel has never crossed its maximum passenger capacity of 100 on any trip. The highest average passenger count per trip recorded was 86 passengers in August 2017.

The vessel by maritime law cannot go over the maximum passenger capacity of the vessel, and to ensure passenger safety on board the following measures are in place: crew members are trained for emergency response; crew members throughout the vessel are equipped with radios, internal phone system for crew to communicate; adequate signage indicating evacuation plan, areas of access and various cautions to passengers; a PA system on board for announcements and to be used in the case of emergency; adequate lifesaving equipment on board for passengers and crew.

At no time since the commencement of operations of the *Cabo Star* on the sea bridge has the safety of passengers and crew members been compromised. I thank you, Madam.

Sen. Mark: Is the Minister aware that the whole issue of safety and comfort by passengers who would use that particular vessel has been the subject of a lot of

criticisms, particularly from the Truckers Association, Truckers and Hauliers Association, over the period that he has referred to? Are you aware that they have been making and submitting serious complaints about their safety?

Sen. The Hon. R. Sinanan: Madam Speaker—I am sorry, Madam President. I just left here two o'clock this morning so I was a bit confused.

I am also aware that there are several players in the sea bridge who, in my opinion, may have different agendas. So I am not surprised there have been complaints, but we have also received commendations from many people who use the cargo vessel. Thank you.

Sen. Mark: Could I ask the hon. Minister if he would be kind enough to inform this Senate of the various players that use that particular vessel who may, in his opinion, based on what he has said, have their own agendas or different agendas? Would you want to share with this Senate what you mean by that? [*Desk thumping*]

Sen. The Hon. R. Sinanan: I would not want to go into that conversation in the Senate, but this conversation would have been in the public domain for quite a while, and if the hon. Senator maybe does not keep clippings from the newspaper, I will make some available to him. Thank you.

Sen. Mark: Madam President, is the Minister aware that several reports have emerged from persons using that vessel of the inadequate facilities, particularly those that are needed by passengers at crucial periods during the journey between Port of Spain and Scarborough, particularly washroom facilities being inadequate?

Sen. The Hon. R. Sinanan: Madam President, there is another question on washroom facilities, so I will wait to answer about the washroom facilities on the other question.

The issue of during the cruise ship period, Madam President, let me put on

the records the problem with the cruise ship periods has nothing to do with the vessel. That has challenges to do with the berthing at the Port in Port of Spain and Tobago. Until the infrastructure has been fixed at the port, because of the size of the vessel, we have to leave the vessels out of the port while cruise ships are inland. It has nothing to do with the vessel.

However, having said that, just to remind the honourable House that when the *Cabo Star* came in, it came in on a one-year contract. NIDCO had gone out for another tender for a more suitable vessel. That tender was unsuccessful, and as we speak, NIDCO is in the process of going out for a second tender, and the *Cabo Star* would have been renewed for a six-month period.

The Government recognized that the *Cabo Star* is not the ideal vessel; however, a responsible government cannot afford to leave the sea bridge without a cargo vessel at this point in time. Thank you.

Sen. Mark: Madam President, could the hon. Minister indicate, in light of the size of this particular vessel, is it the intention of the Government to embark on a project of dredging in the harbour to facilitate not that vessel, but other vessels as you seek to develop and attract new customers to the shores of this country?

Madam President: Sen. Mark, I will not allow that question. Next question.

**Children's Authority of Trinidad
(Counselling for Abused Child)**

105. Sen. Wade Mark asked the hon. Prime Minister:

In light of recent reports that a 16-year-old special needs child rescued last January from a life of abuse has not been provided with the necessary counselling by the Children's Authority of Trinidad and Tobago, can the Prime Minister indicate, if and when, this child would be provided counselling?

The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy): Thank you, Madam President. On January 31, 2018, the Children's Authority responded to a report that a child with severe special needs was being physically abused and made to sleep outdoors. The child was removed from the home overnight and placed in the care of a fit person. This was done after the fit person and the physical property where the child would reside were assessed to determine suitability to care for and accommodate the child. During the visit a parenting training session was done to provide the fit person and her family with tools to stabilize the child in his new environment.

As is customary, the Authority conducted a needs assessment of the child and it was ascertained that he required specialized intervention which is not provided by the Authority. Since the Authority works with several partners in the social services sector, relevant providers were identified and several referrals were made to obtain a psychoeducational assessment, vocational rehabilitation services and parents training. While these services are being outsourced, the Authority remains in close contact with the fit person, communicating with her on a weekly basis.

During a recent visit to the home of the fit person, a clinical psychologist accompanied the team and conducted a session with the child. It was then determined that the child was not in need of critical therapeutic intervention, that is, not in need of urgent counselling, but would benefit from immediate psychoeducation. The sessions for the child to be conducted by the Children's Authority clinical psychologist commenced on April 05, 2018. The fit person will also benefit from some sessions to assist her in caring for a child with special needs. Thank you, Madam President.

Madam President: Next question, Sen. Mark.

**St. Augustine Nurseries
(Infection of Plants at)**

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

Given reports of suspected sabotage in the infecting of plants with the citrus greening disease at the St. Augustine Nurseries, can the Minister indicate the following:

- i. whether the Ministry has thoroughly investigated the origin of said disease in this country;
- ii. whether the disease has been contained; and
- iii. whether the allegations of sabotage have been or are being investigated; and
- iv. if the answer to (iii) is in the affirmative, what is the outcome of such investigation?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): [*Desk thumping*] Madam President, I thank my colleague, Sen. Mark, for his keen interest in this matter of citrus greening disease.

Madam President, as it relates to part i of the question, on April 25, 2017, citrus greening disease was confirmed to be present in Trinidad, as a result of routine sampling from two suspected trees, one located in Diego Martin and one located in Curepe. A delimiting survey was conducted to determine the spread of the disease from the two focal points in Diego Martin and Curepe. Samples tested positive in the following areas: Winnie Mohammed Road, Alyce Glen, Arbor Brook, Diamond Vale and Petit Valley.

From the Curepe focal point, samples tested positive in the following areas: Maracas Valley, St. Joseph, Riverside Road, Curepe, Champ Fleurs, Mount Hope and Valsayn North and South. Ministry of Agriculture, Land and Fisheries

propagating stations of the Agricultural Services Division, namely the St. Augustine Nurseries La Reunion Plant Propagation Station and Marper Farm were also surveyed. The disease was found to be present in St. Augustine nurseries, while Marper Farm and La Reunion stations were negative at that time.

As it relates to part ii of the question, Madam President, the Ministry continues to employ general management strategies for the containment of citrus greening disease, such as the treatment of infected trees with an insecticide followed by removal and destruction of the infected trees by burning on site. This exercise is done continually to remove all infected trees.

With regard to the third and fourth parts of the question, Madam President, the expert advice has been that citrus greening has been present in Trinidad for at least five years, and there are several ways it could have crossed our borders. Nothing so far suggests that sabotage is an issue as no such allegations of sabotage have been or are being investigated since the presence of the disease has not been confined to the St. Augustine Nurseries alone.

I thank you.

Sen. Mark: Madam President, I would like to ask my hon. colleague whether it is purely coincidental that this citrus greening has occurred particularly at the St. Augustine Nurseries where the Government is planning to construct a number of towers. Would you want to clarify for us whether this was coincidental?

Madam President: Sen. Mark, I will not allow that question. Next question, Sen. Mark. No more?

Sen. Mark: No, I am good.

2.00 p.m.

Madam President: Sen. Hosein.

Sen. Hosein: Thank you very much, Madam President. Madam President, with

respect to the citrus greening disease, can the Minister indicate whether or not any steps have been taken in order to reduce the amount of citrus greening in those areas that he would have outlined in his answer?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, as I have said before, citrus greening is a notifiable disease. It means that anybody in Trinidad and Tobago with citrus plants or trees who believe that, based on the signs that we have alerted the country to, any signs, the infected material has to be destroyed. And in relation to the Ministry, we have ongoing activities, recently I think I answered a question relating to 2,942 matured trees since January having to be destroyed at propagating stations around the country, and that is an ongoing exercise.

Madam President: Sen. Mark.

Sen. Mark: Could you tell us, hon. Minister, how many matured trees have been destroyed as a result of citrus greening at the St. Augustine Nurseries thus far?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, I believe sometime recently I referred to a memo from Patricia Maharaj who is the Director of Agricultural Services Division where she requested permission in relation to St. Augustine Nurseries to destroy 1,648 trees. I cannot say how many of those 1,648 have been destroyed to date.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether there has been any solution or treatment to address the spread of this citrus greening? Or I should ask: Is there any treatment or solution to curb the spread of this citrus greening?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, maybe I should adopt Sen.

Mark's approach and answer the question that was not asked, so I will answer it in two parts.

The first is that dealing with the spread involves the removal of the diseased material whether we find it. And I am pleased to say that today we received in Trinidad the certified rootstock seed from Florida which will be propagated in controlled conditions in Trinidad and Tobago, and that is the variety that has shown resistance in Florida. It is first time that the United States has allowed its material out of the country. We are very happy to receive it, and it will be developed in Trinidad under the watch of the experts from Florida. Thank you.

Madam President: Sen. Hosein.

Sen. Hosein: Thank you very much, Madam President. In light of the Minister's answer with regard to the treatment of the citrus greening disease and the destruction of trees, can the Minister indicate whether or not this disease affects the soil in which these trees were planted on?

Sen. The Hon. C. Rambharat: Madam President, I am not in position to answer that question.

Madam President: Next question, Sen. Hosein.

**Maracas Beach Facility
(Food Vending at)**

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

Having regard to food vending at the Maracas Beach facility, can the Minister advise on the following:

- i. have the relevant officials from the Ministry of Health inspected the food vending facilities prior to occupation by vendors; and
- ii. have the necessary approvals for food vending been granted by the Ministry of Health?

Madam President: Leader of Government Business.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in response to (i): the old vending facilities at the car park were frequently inspected prior to demolition. The existing old huts on the beach were also frequently inspected prior to demolition. The new temporary tents on the beach have been inspected on four occasions during the months of September, November and December, 2017 and on January 2018.

In response to (ii): the food handlers' badges for operators are up to date for all operators for the years 2017 and 2018. Approvals were granted for the use of the old vending facilities at the car park and on the beach. No approvals have been granted for the new permanent facilities to date which I must add, have not been opened as yet. The Ministry of Health is awaiting the final applications for approval for the use of these facilities for the preparation and sale of food.

Madam President: Next question, Sen. Obika.

Blue Basin Waterfall (Safety Measures)

119. Sen. Taharqa Obika asked the hon. Minister of Tourism:

In the aftermath of a man having drowned at Blue Basin Waterfall in Diego Martin, can the Minister inform the Senate of the measures that are in place to ensure the safety of swimmers and visitors to the Waterfall?

Madam President: Minister of Tourism.

The Minister of Tourism (Hon. Randall Mitchell): [*Desk thumping*] Thank you very much, Madam President. The Government wishes to extend sincere condolences to the family of Mr. Samuel Thomas who unfortunately lost his life at the Blue Basin Waterfall.

The Blue Basin Waterfall is not under the direct control of the Ministry of

Tourism. In accordance with the Waterworks and Water Conservation Act, the Drainage Division of the Ministry of Works and Transport is the competent authority for main water courses like the Blue Basin Waterfall.

Notwithstanding this, the Ministry of Tourism will work with the relevant authorities including the Ministry of Works and Transport and the Diego Martin Regional Corporation, the Ministry of Rural Development and Local Government, to advise the public of the risks associated with swimming and other activities at the waterfall through appropriate signage and public water safety education.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. I know it may not be the practice to have lifeguards as is present on beaches, but there are some waterfalls such as Argyle in Tobago where there are community groups that support the work—supplement the work of a lifeguard. Is it that we are going to be doing such in Blue Basin, so that there is a presence of persons who are familiar with safety?

Madam President: Minister.

Hon. R. Mitchell: Madam President, while it is a different question, the lifeguards are under the remit of the Ministry of National Security. The Ministry of Tourism will speak to the Ministry of National Security and do some sort of risk assessment to determine whether or not we can have lifeguards there.

Madam President: Next question, Sen. Hosein.

T&T Nationals Participation in ISIS (Measures to Dissuade)

125. Sen. Saddam Hosein asked the hon. Minister of National Security:

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 indicate what measures are being implemented by the Government

to dissuade Trinidad and Tobago nationals from participating in conflict on behalf of ISIS?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon: [*Desk thumping*] Thank you very much, Madam President. Madam President, the Government of Trinidad and Tobago recognizes the global threat posed by the Islamic State of Iraq and Syria. As a consequence, measures have been heightened to deter nationals from being enticed by ISIS ideology.

The Government of Trinidad and Tobago has strengthened internal structures and agencies to treat with the subject of terrorism. These structures and agencies include: the Strategic Services Agency; the Special Branch of the Trinidad and Tobago Police Service; Financial Investigation Branch of the Trinidad and Tobago Police Service; and Trinidad and Tobago Defence Force; the Anti-Money Laundering and Countering Financing of Terrorism; Compliance Unit of the Ministry of National Security; the International Affairs Unit and Immigration Department.

Madam President, further, the Anti-Terrorism Bill, 2018, seeks to amend the Anti-Terrorism Act, Chap. 12:07, and will significantly strengthen Trinidad and Tobago's ability to combat terrorism. The Bill contains comprehensive measures including criminalization of travel for the purpose of committing terrorist acts and deeming persons as foreign terrorist fighters, as well as provisions to address risks posed to children including recruiting and taking them into conflict zones.

Also, the Strategic Services Agency (Amdt.) Bill, 2016, which was proclaimed on the 4th of October, 2017 amended the Strategic Services Agency Act, Chap. 15:06, to expand the remit of the SSA to include border law enforcement coordination and intelligence functions.

In an effort, Madam President, to bolster national capacity in the area of

countering and preventing violent extremism, Trinidad and Tobago has also enhanced collaboration with its regional and international partners, including the United States of America, United Kingdom of Great Britain and Northern Ireland and Canada.

On a number of crime reduction and social justice programmes, Trinidad and Tobago also continues to work closely with the United Nations on these matters. These initiatives involves increased intelligence sharing between law enforcement and intelligence agencies, the provision of enhanced operational support and participation in counter-terrorism programmes.

The Government has also partnered with key international agencies such as Hedayah and the International Centre of Excellence for Countering Violent Extremism to deliver the required training to national stakeholders in an effort to build national capacity on the issue of both preventing and countering radicalization in Trinidad and Tobago.

In this regard, key training has been provided for the purpose of development of a national action plan. A similar partnership also exists with the Commonwealth Countering Violence Extremis Unit. To this end, the Government has enhanced its security and intelligence collaboration with traditional and non-traditional partners at the national, regional and international level.

Government has also began a process of deepening partnership with key non-governmental faith-based and community-based organizations. To this end, one would recall that at the level of national security and at the level of the Prime Minister, discussions were held referred to as the roundtable discussions with members of the Muslim faith in Trinidad and Tobago, in an effort to speak with one voice against radicalization and to prevent youths or young people from being attracted to the ISIS philosophy.

Madam President: Sen. Hosein.

Sen. Hosein: Madam President, the answer given by the Minister of National Security with regard to engaging national stakeholders and training of these stakeholders, can the Minister indicate whether or not any programmes have so far been implemented in communities in order to prevent persons from extremism?

Madam President: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam President, the programme, the discussion has taken place at the level of the leaders of religious organizations in Trinidad and Tobago. However, I can say that there are some programmes that have been done at the level of communities, certain citizen security programmes thus far, but again, it is an expanding programme; it is a work in progress.

Madam President: Sen. Hosein.

Sen. Hosein: Madam President, having regard to all of the measures and stakeholders that the Minister indicated that have been engaged with respect to this issue, can the Minister indicate whether or not there has been a decline in the amount of persons who would be travelling abroad to Syria?

Madam President: Minister.

Hon. Maj. Gen. E. Dillon: Madam President, I cannot say whether there has been a decline.

Madam President: Sen. Hosein.

Sen. Hosein: Madam President, can the Minister indicate whether or not there are any—whether or not the Ministry took any steps in order to track persons going from Trinidad and Tobago to Syria?

Madam President: That question does not arise. Next question. Sen. Ameen.

Sen. Ameen: Madam President, I just want to ask the Minister: What are his indicators or the Ministry's indicators that you are looking for to assess whether

what you plan to implement is reaping results?

Madam President: Minister.

Hon. Maj. Gen. E. Dillon: Madam President, the programme will speak for itself in terms of the assessment and so on, but there will be some monitoring taking place by the Ministry of National Security and the agencies so charged.

Madam President: Next question, Sen. Obika.

Trini Flash Water Taxi
(Engine Malfunction)

126. Sen. Taharqa Obika asked the hon. Minister of Works and Transport:

Can the Minister advise as to the circumstances that led to the malfunctioning of the engine of the *Trini Flash* Water Taxi, on March 27, 2018?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you, Madam President. Madam President, there was no malfunctioning of any of the engines on the *Trini Flash* on March 27, 2018. Prior to the use of *Trini Flash*, maintenance was conducted and two of its four engines which were replaced. This was followed by successful sea trials. The engines were also monitored during the voyage to and from Tobago, and all engines, original and replaced, were noted to be operating satisfactorily. The exhaust system over both replaced engines had to be redone. These works consisted of supplying fabrication and installation of new exhaust pipes and silencers. Those elements were then insulated with lagging material capable of withstanding very high temperature. In this case, the rated thermal capacity of the lagging was 100 degrees Celsius.

Following the fire incident, investigations revealed flaws in the workmanship of the installation, in particular the butt joints of the installation were not properly sealed, and in one particular area there was a gap. Hot air from around the silencers which was trapped by the installation escaped through the

opening in the seals, and heated and burned the nearby overhead electrical and communication cable and the cable trays, thereby causing the fire. The fire damage was confirmed to be the cable immediately above the opening of the lagging. A section of the cable tray in that area, the surface area of the installation against the ceiling was also insulated on the vessel. Thank you, Madam President.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. Then could the Minister indicate if, in effect, that the vessel in the state it was in, was incapable of making the inter-island route?

Madam President: Minister.

Sen. The Hon. R. Sinanan: Madam President, the vessel made the inter-island route. As I said, there was a flaw in the repairs of the silencer and on the engine. It had nothing to do with the engine or the safety of the vessel. It was a fault of the supplier who supplied the silencer on the engine did not do proper workmanship.

Madam President: Sen. Hosein.

Sen. Hosein: Madam President, is the Minister saying that on the 27th March the water taxi made the journey having regard to that water taxi being marooned in middle of the ocean in the middle of night and those passengers having been transferred on another vessel?

Madam President: Minister.

Sen. The Hon. R. Sinanan: Madam President, as I said, the vessel arrived in Tobago, it was on its return from Tobago the incident occurred, and the passengers were transported onto the *Cabo Star*, taken back to Tobago and the vessel the made its journey to Trinidad.

Madam President: Next question, Sen. Obika.

**Icacos Health Centre
(Closure for Lack of Water)**

UNREVISED

127. Sen. Taharqa Obika asked the hon. Minister of Public Utilities:

Having regard to the closure of the Icacos Health Centre on March 27, 2018 due to a lack of water, can the Minister indicate what is being done to ensure that this situation does not arise again?

The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte): Madam President, the Ministry of Health has advised that contrary to what was indicated by Sen. Taharqa Obika in his question, the Icacos Health Centre was opened and operational with a full complement of staff on Tuesday 27 March, 2018.

The Ministry of Health further advised that health care delivery at the health centre was not compromised on that day by any disruption in water supply emergencies for adverse situations. Moreover, the facility is equipped with two 1,000 gallon water storage tanks which are used as back up when there is a temporary disruption in the supply of pipe borne water.

The provision of a safe and reliable supply of water to the health facilities throughout the country is a priority of the Water and Sewerage Authority. In this regard, arrangements are in place to ensure that all health facilities are provided with an adequate supply of truck borne water when there is a disruption in the supply of pipe borne water.

Emergency contact numbers and supply arrangements have been established to allow for timely notification of disruptions in the supply of pipe borne water and the facility's speedy response to the provision of pipe borne water.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. I find it very confusing that the Minister would say that I am not telling, I am not correct because, is it that he is saying that Radhica Sookraj's article on March 28th, the following day of the *Trinidad Guardian* where she stated that the Icacos Health Centre was also shut

down given this water shortage, is he saying that this article is false from the *Guardian*?

Madam President: You do not have to respond to that. That does not arise. And Sen. Obika, may I just point out to you that I just want to point to you Standing Order 28(1) (c). Next question, Sen. Obika.

Sen. Obika: Actually, I wanted to ask a supplemental, another supplemental.

Madam President: Well, could you just pose that to me in proper manner, please?

Sen. Obika: Okay. The question basically is—

Madam President: Yes.

Sen. Obika:—the article said the health centre closed because of a lack of water.

Madam President: And I already said, Sen. Obika, that I am not allowing that question. Do you have another supplemental?

Point Fortin RC Primary School (Student Bullying)

128. Sen. Taharqa Obika asked the hon. Minister of Education:

In light of reports that the authorities failed to act on a report of student bullying at the Point Fortin RC Primary School and the fact that the reported bullying continued and resulted in a student being beaten with a street sign, can the Minister indicate the following:

- i. has the Ministry launched an investigation into this incident;
- ii. if the answer to (i) is in the affirmative, has the investigation been completed;
- i. what were the findings of such investigation; and
- ii. what action will be taken to ensure that there is no recurrence of this situation?

Madam President: Minister of Education.

The Minister of Education (Hon. Anthony Garcia): [*Desk thumping*] Thank you very much, Madam President. (i), the question is: has the Ministry launched an investigation into this incident? Answer, Madam President, the matter was immediately investigated by the school supervisors of the St. Patrick education district under whose jurisdiction Point Fortin RC falls.

(ii) if the answer to (i) is the affirmative, has the investigation been completed? The answer, yes, the investigation has been completed and the report was submitted by the school supervisors of the St. Patrick education district.

(iii) what were the findings of such investigation? Answer, Madam President, the findings of the investigation revealed that the incident occurred outside the school compound after school was dismissed while students were awaiting transport to be taken home.

Two pupils were swinging on a road sign which fell on one of the pupils who sustained an injury to the head, and not as a result of bullying as reported in the media.

Ant the fourth question (iv): what action will be taken to ensure that there is no recurrence of this situation? The school administration has reviewed the procedures with respect to students' behaviour and the supervision of students. Students, including those who were involved in the incident, have been reminded of the guidelines governing their conduct in and out of school to ensure their personal safety.

Further, the school's administration contacted the Point Fortin Borough Council and the sign was removed. Thank you very much.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. Not to run afoul of Standing Order 28(1) (c), I would like to ask the Minister if any counselling was given to the

parent of the child in question that was the victim of bullying?

Madam President: Before I call on the Minister to respond, I would ask all Members to be very careful when I make a ruling and your subsequent pronouncements on it. Minister.

Hon. A. Garcia: Madam President, I do not understand that question. I made it very clear that it was not a matter of bullying. [*Desk thumping*] I do not know what is occupying the mind of Sen. Obika to insist that it was bullying. It was an accident that happened. I do not know whether he was listening to me. You need to listen first before you open your mouth.

Madam President: Minister, Minister. Sen. Obika, next question.

Sen. Obika: Thank you, Madam President. Having listened to the hon. Minister of Education, an esteemed educator, I would like to ask: Given the mishap, the freak accident that happened, given the child, is there any counselling for the parent of the child in question?

Madam President: I believe you just asked that question.

Sen. Obika: No. Actually, I corrected by removing the word “bullying”. So the freak accident that happened and the incident, was any counselling for the parent in question?

Madam President: I think it is the same. You can ask another supplemental. Go ahead. I will not allow that one.

Sen. Obika: Madam President, there is another—I will leave it like that. Thank you.

Madam President: Next question, Sen. Richards. [*Crosstalk*] Sen. Ameen, please.

Cabo Star Toilet Facilities (Non-Functional)

141. Sen. Paul Richards asked the hon. Minister of Works and Transport:

In light of recent reports that the toilet facilities on the *Cabo Star* are non-functional, can the Minister indicate what is being done to remedy this situation?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you, Madam President. Madam President, at this time, the toilet facilities on the *Cabo Star* are functional. The toilet systems have been working very well for the majority of the contracted period with the exception of a few instances when items were intentionally flushed into the system.

The Port Authority of Trinidad and Tobago has advised that in order to prevent similar situations in the future, the owner of the vessel is in the process of installing a protective system in all the passenger toilets. This specific trap hook is designed to avoid blockage of the sewage line in the case of a jam in some of the units. I thank you.

Madam President: Sen. Richards.

Sen. Richards: Thank you, Madam President. Can the Minister indicate the timeline for the remedial intervention activities on the *Cabo Star*?

Madam President: Minister.

Sen. The Hon. R. Sinanan: Thank you. As I indicated, the toilet facilities are working. At the time when this had happened, they would have shut down the facilities while the vessel was on journey, and once it came back on shore they would have done the remedial work. Since then we have not had any reports of this incident reoccurring.

Madam President: Sen. Hosein.

Sen. Hosein: Having regard to question 111, I would like to invoke Standing Order 27(16), please.

Madam President: Standing Order 27(15) will be invoked.

PROPERTY TAX (AMDT.) BILL, 2018

[Fourth Day]

Order read for resuming adjourned debate on question [April 20, 2018]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, on the last occasion that the Senate met, the Minister in the Ministry of Finance had begun her winding up. Hon. Minister, you have 39 minutes of speaking time remaining. Minister. [*Desk thumping*]

Sen. The Hon. A. West: Thank you, Madam President. Madam President, there were several issues raised, a lot of them on a common theme among the Senators, so I will deal with the issues by issue rather than by Senator.

The first one that a lot of heavy weather was made about was the Government's plan to impose tax on squatters. Sen. Richards commented on whether it was appropriate to do so. Were we legitimizing squatters by doing that? Sen. Obika indicated that he thought it was immoral for the Government to seek to tax squatters. I find it strange that Sen. Obika is not concerned, but does not see anything immoral about somebody illegally occupying land owned by somebody else, but finds it immoral that we will seek to impose tax on these people. So let me deal with the issue of legitimizing the squatters. Madam President, it is generally accepted in tax law and has been a principle for quite some time—

Sen. Obika: Madam President, Standing Order 42(9). I wish to correct the content of the hon. Minister.

Madam President: Continue, Minister.

Sen. The Hon. A. West: Thank you, Madam President. Yes. On the issue of whether it is legitimizing an illegal activity to impose tax on that activity, there are several cases that address this issue. For example, the case of the Canadian

Ministry of Finance and Smith which involved the illegal importation and sale of alcohol into Canada, where the individual who was assessed to tax on the profits of that activity claimed that it was improper for the revenue authority to tax him on that income, because the activity was illegal.

The judge ruled against him, and Lord Haldon said that once the character of business has been ascertained as being the nature of a trade, the person who carried it out cannot be found upon the elements of illegality to evade tax.

And, Madam President, that was one of several cases where judges throughout the world have recognized that notwithstanding that the activity is illegal, it is quite proper to tax that activity.

The most famous case in the world that I think that gives that evidence to that position is Al Capone because you will recall that Al Capone was not imprisoned because of his widely acknowledged involvement in illegal activity, he was jailed finally because of tax evasion which is an acknowledgment by the system that it was proper for him to pay tax on the gains of his illegal activity.

Sen. Richards: Thank you, Minister. In those cases you cited, and presuming that the illegal activity halted and did not continue or is that not the case?—am I misunderstanding those? So that in that case, the State would have sanctioned taxes on the illegality, but ceased by illegality in terms of its continuance. In these cases, I am presuming, those persons will continue to occupy those lands illegally, and that is my concern. [*Desk thumping*]

Sen. The Hon. A. West: Thank you. So that what I am trying to say is that one issue is separate from the other. The fact that you are carrying on an illegal activity does not mean that you ought not to pay tax. You are still carrying on an illegal activity, and so the State has the authority to and, in my view, should address the illegality, but that does not mean that the person who is illegally

occupying land and who is enjoying the benefits of the roads and water provided by WASA and garbage collection and all these other things, should not pay tax in respect of that property. Whereas the person next to him who scrimped and saved and borrowed and sacrificed to pay properly for his property should be paying tax. That in my view is immoral.

2.30 p.m.

So, we need to separate the immorality from the fact that there is a basis for going after that person for the illegal activity. So, taxing—yes, and prosecution as well, in my view. And, lest it be said that the Minister of Finance is advocating taxing poor squatters who cannot afford to bear taxes, let me remind you that there is a provision in the legislation providing for relief for people who are financially-strapped and are not able to bear the cost of tax. Whether that person is a squatter or not, the person can qualify for that exemption, if they are in the situation envisaged by the Act. And for those people, they can make an application to the board, the board will consider it, and if the board is satisfied that they cannot afford the tax, the taxes can be waived.

But, there are squatters in Trinidad and Tobago who are not financially-strapped; they are well-off. I am personally aware of an individual, who is properly educated, in an excellent job, probably earning higher salaries than all of us, and not only is he squatting on land that does not belong to him, but he and his family have set up a gated community on this property. Are you saying to me that he should not bear the cost of the tax when he is demanding proper roads, he is demanding water, he is demanding all the services of the State? I do not agree with that. So, we have to separate the issue of squatting, because we tend to associate squatting with financial difficulties. That is not necessarily the case, right? So yes, the Government is insisting that people who are squatting illegally

should bear the tax, and that is separate and apart from whether or not action should be taken against them in respect of the squatting, or alternatively, that their position on the land should be regularized. They are two separate issues.

So, a few Senators also raised the issue of exemptions being provided. Sen. Chote, in particular, listed several NGOs, and was concerned about the fact that we were not providing relief to NGOs. Sen. Ameen indicated that persons—that the relief provided could allow persons to register organizations simply to avoid the tax. So, let me amend both misconceptions. What I had indicated was that not all NGOs would qualify for the relief. To qualify for the relief, the organization would have to be an approved charitable organization. So, an NGO that is carrying on activity that qualifies as charitable activity, would go through the process to get approval and can qualify for the relief. And Sen. Chote, I am happy to advise you that all of the organizations that you have listed in your contribution—that I was able to take a note of—are in fact, approved charitable institutions and will qualify for the relief. They included the Rape Crisis Centre, ALTA, Rebirth.

These are all on the list of approved charitable organizations. And Sen. Ameen, the reason why we have moved away from saying, “all charitable institutions will qualify for the relief”, to say, “charitable institutions approved under section 6(1)(g) of the Income Tax Act”, was to ensure that somebody could not arbitrarily just register an entity that they call charitable and get entitlements to relief. There is a process that they have to go through to satisfy the Board of Inland Revenue that they are in fact charitable, not only in terms of what their by-laws state, but in how they operate and how they spend their money. So, there is a process in place to monitor it, and this is the very reason why we introduced the amendment, to make that provision tighter.

Sen. Creese, who is not here today, raised the issue of, why are we not

providing relief to credit unions, and is that not double taxing workers? I am sure Sen. Creese is well aware of the fact that many credit unions can quite easily afford to pay the tax. There are many credit unions who own and rent significant commercial properties to the Government as well as to the private sector, earning hundreds of thousands of dollars per month. And the reason why Sen. Creese would be aware of this, is because he leads such a credit union. So, to give a broad-brush position and say, credit unions should not be called upon to pay property tax—I cannot accept that recommendation. Sen. Small asked why the University of Southern California was not on the list of exempt entities—

Hon. Senator: Caribbean.

Sen. The Hon. A. West: Caribbean, sorry. And this is because the intention was to provide relief to Government-owned and Government-supported institutions, and that university does not fall within that category. There are quite a few Senators, among them Sen. Chote, Sen. Richards and Sen. Ameen, who asked why the Government was not being required to pay interest on refunds when those refunds were paid late—because, we were asking the taxpayer to pay interest, but the Government was not required to pay—and I would refer you to section 20 of the Act, which at subsection (2) states:

“Any amount of a refund under subsection (1) that remains outstanding for more than...six months after the date by which it became due, shall bear interest at the rate of six per cent per annum from the day after the expiration of that period until the amount outstanding is satisfied.”

So, the Government is obliged under the Act, as originally drafted, which is why if you only look to the amendments you would not have seen it. Under the Act it is originally drafted—the Government is obliged to pay interest on refunds if the refunds are not paid within six months.

There was a question as to why we were not seeking to replace the Tax Appeal Board with the Appeal Tribunal that was set up under the Valuation of Land Act as amended recently, and it is not an oversight, it is not because the Valuation Tribunal had not yet been established by the Act at the time that we drafted this. It was a deliberate decision to separate the valuation issue from the tax issue. We have a tax tribunal that deals with all tax matters in Trinidad and Tobago, and we do not want to disturb that. The Valuation Tribunal will deal with a specialist area of activity which is the valuation of property. It is not to be regarded as a second tax court, and this is why the appeals under the Property Tax Act—which will deal only with the tax on property rather than valuations to property—will continue to go before the Tax Appeal Board.

I think my colleague, the Leader of Government Business, quickly dealt with the issue of the allocation of the tax to local government for the purpose of developing and allowing more autonomy in local government. We do plan to bring that legislation before the House in the not too distant future, and it will address the issue of allocation of property tax to the regional corporations.

The issue of hardship was mentioned by several people. The most common group up of people who were seen to potentially be at risk of suffering from hardship were pensioners. And Sen. Hosein, for example, advocated that we should adopt Barbados' position of allowing—he said 60 per cent. My research indicates 50 per cent relief from the tax on property, to pensioners. Again, Sen. Hosein's maths has me a little confused. Because, in my computation 100 per cent relief trumps 50 or 60 per cent relief. The only difficulty there, is that we are asking the person who is seeking such relief to come before the board every two years, to satisfy the board that he continues to qualify for relief on the basis of hardship. If I were a pensioner suffering from hardship, and you gave me a choice

between paying 50 to 60 per cent of the tax, or paying none on condition that I am prepared to go to the board every two years to satisfy them that my condition remains the same, I would choose option two. I will prefer to pay nothing because I am suffering from hardship.

So, I continue to believe that our formula is superior to the one proposed—the one recommended out of the Barbados legislation, and so this is the one we are proposing to move forward with. To allay the concerns of the citizenry about the process and where they will have to go, it is the intention of the Government—as it introduces and rolls out to the TTRA in the not too distant future—to beef up the regional offices and the district offices, to provide a fuller service—and so that you would not be required to go to Port of Spain or to go to Tobago. Those two offices only—to put in the application, have the applications dealt with. You would be able to do it within your region and so, that will reduce the level of stress and discomfort you will have to go through. And again, it is only once every two years to ensure that you maintain this benefit if you continue to qualify for it.

Sen. Hosein again focused on the fact that we were saying that a pensioner would be required—well, sorry, that the Government was saying that \$500 was a “little bit ah money”, and therefore it would be difficult for people to pay \$500 every month for property tax. Now, there is some confusion with this \$500. I never said that anybody would be required to pay \$500 tax. The \$500 issue came up under the Valuation of Land (Amdt.) and it had to do with adjusting the penalty for committing an offence under that legislation. It is not a tax payment. Now, to be liable for a \$500 monthly tax bill, you would have to be earning annual rental income of \$200,000, or monthly income—rental income of \$16,000. And it seems to me that if you are in that position, I do not see anything wrong with you being asked to pay \$500 a month or \$6,000 a year in tax. But, the majority of people

who are living in standard accommodation that is estimated to cost between \$3,000 and \$4,000, would pay nowhere in the vicinity of \$500 a month. It would be below \$100 a month. So, let us not get confused with figures, and again, traumatize people who are concerned about what is happening with this tax.

Sen. Richards asked us to consider—in looking at the issue of giving relief to people who are suffering hardship. People who are parents of children with special needs—Sen. Chote spoke about giving relief to people with Alzheimer's, divorced women, and so on. Again, I would say that the relief is intended to apply to people who cannot afford to pay the tax for whatever reason. If you cannot afford to pay the tax because you are recently divorced and you have no more income and you are not receiving your maintenance payments from your spouse—your former spouse, then that is a basis on which you can apply for relief. If you are the parent of a special needs person and the cost of medical, and education, and other support has put you in a position where you cannot afford to pay the tax, again, that is a basis for relief. So, the basis for the relief is broad enough, in my view, to encompass all of these groups, and the cases will be considered, and once the individuals can provide the support, they would be granted the relief.

Sen. Hosein: Would the Minister give way? With respect to that point on the relief, for example: for a five-year period I am unable to pay the property tax, and I get the relief from the board, and subsequently I acquire wealth, would that period I did not pay any property tax for, will that now accrue to be paid at the end of the five years? If the answer is yes, would there be an interest attached to it?

Sen. The Hon. A. West: The relief is a deferral. The board is only authorized to defer taxes. So any time the board gives you relief, it is a deferral. There is a provision under the legislation, however, for the President in certain circumstances, to waive the tax in part or in full, and that would be at the discretion of the

President. In respect of the interest, there is no contemplation, interest will be charged where there is a deferral, unless the period of the deferral comes to an end and you do not pay within a reasonable time, yes?

Sen. Ramdeen was concerned that we would be charging somebody living in Icacos the same amount of tax as we charge somebody in Westmoorings, and he was saying that to support his view, that we should revert to the lands and buildings taxes where different rates applied in different parts of the country. Now, my response to that would be: the value of land in Westmoorings would naturally be higher than the value of land in Icacos. So, for somebody's property in Icacos to be rated the same as the property in Westmoorings, that would have to be some special kind of house, and a very expensive, special kind of house. And if the person in Icacos can afford to build a house like that, why should he not pay the same as the person in Westmoorings, if the value of the property—land and building included—is the same as the property in Icacos? So, I do not see the basis for distinguishing rates on the basis of where the property is. It has to be on the basis of the value of the property.

I think it was Sen. Hosein, who brought to our attention that there was an omission in Schedule IV regarding Chaguanas, and we took that into account, and we will address that. Sen. Raffoul asked: Why property tax and not TTRA? Again, Sen. Raffoul, it is not an either/or. We are committed to coming forward with the TTRA to improve the collection of tax, but we believe for all the reasons stated, that property tax is the tax that we should impose. We are looking at the whole picture, and we think that is something that we need to move forward with. So that in wrapping up, I would remind you of the broad reasons why we move from a land and building tax to a property tax. We had land subject to tax at \$10 an acre, and land with buildings subject to tax on the basis of the annual rateable

value.

Now, as somebody who used to advise taxpayers on how to avoid, not evade tax, you could take advantage of that provision. Let us say I wanted a block to put my house—because I do not want any neighbours close, I would say to the person who is selling the land, okay, sell me 10,000 square feet so I could build my mansion, and sell my wife the rest. So that on the block that I build, I pay the tax on the annual rateable value, and on the rest of the acre, which I also enjoy as part of my property—I pay \$10. Yes, that is what would happen.

Sen. Prescott SC: Free advice.

Sen. The Hon. A. West: So, it was reasonable to move away—[*Laughter*] Yeah, my mind works that way—from that approach, to charging on the basis of the value of property, whether the property is enhanced with a building or not. The value that would arise would differ depending on whether it is enhanced with a property or not.

So in my view, the Property Tax is a superior tax to the lands and buildings tax. It reduces the likelihood of abuse, and it encourages people to use land properly as opposed to leaving it vacant. I will remind you that under the Lands and Buildings Taxes Act we had a range of rates in different boroughs and corporations, ranging from 2 per cent in Point Fortin to 10 per cent in Port of Spain. Why should somebody living in Port of Spain pay 10 per cent property tax, while somebody in Point Fortin is paying 2 per cent? It makes no sense. So, what we have done is we have uniformed the rates by category, so we have four different categories, and each category will be paying at the same rate throughout the country.

So, what is this tax seeking to do? It is seeking to unify the responsibility for, and timing of, the assessment of properties under one entity, which is the

valuation commission, rather than having different authorities in different regions doing assessments on different bases. It is seeking to unify the timing so that we move away from a situation where the houses in Port of Spain were assessed in 1948, and the houses in Point Fortin were assessed in 2009, and therefore people in Point Fortin are paying more. We are seeking to unify the rates across the country, as I said. We are seeking to stagger the rates to encourage the use of property in areas that we are trying to promote, and to provide relief to residential people. So, agriculture you pay only 1 per cent, because agriculture is an area that we are trying to promote, and the return tends to be lower than in other areas. Residential 3 per cent, commercial 5, and industrial 3 and 6.

So that, what this Bill seeks to do is to clarify certain issues that were not properly addressed in the original legislation, as I had outlined. The property tax is a reasonable tax. It is equitable. We will provide the relief to the people who cannot afford it. We do not expect the valuations to throw up unreasonable amounts of tax liabilities, but we will see that as we start the valuation exercise. As I said before, the tax is reasonable; the tax is necessary; the tax will be used largely in respect of the local government reform, which is coming soon, and for that reason we recommend the amendments to you and hope that you can provide the support to us.

Madam President, I thank you and I beg to move. [*Desk thumping*]

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. The hon. Minister stated that in reference to myself, that I did not find it immoral for persons to occupy lands illegally. However, in my contribution I did not comment specifically on the immorality of squatting, but rather the morality of taxing squatters. So, the Minister is wrong, and I deserve an apology from the Minister in this regard. My

contribution was as follows—

Madam President: No, Sen. Obika, if you read carefully what the Standing Order is about, you are not qualifying with what you are saying. Okay? So I will now put the matter to the vote.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Hon. Senators, there are three sets of amendments that have been circulated. Amendments have been circulated on behalf of the Minister of Finance, Sen. Mahabir and Sen. Mark. Is everyone in possession of the amendments? Can I see by a show of hands if anyone needs to receive some amendments? Hon. Senators, the amendments circulated on behalf of the Ministry of Finance—that is the last set of amendments, I am therefore going to suspend the committee for 10 minutes so that all Members can familiarize themselves with the different sets of amendments. So, the committee is suspended for 10 minutes.

2.00 p.m.: *Committee suspended.*

3.04 p.m.: *Committee resumed.*

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

In paragraph (b)(i), after the words “Board upon an objection by the owner of land to”, insert the word “an”.

Mr. Imbert: Madam Chairman, there is an amendment circulated to clause 3, correcting a grammatical error. If one looks at the parent Act, it will now read as follows:

“‘appeal’ means an appeal to the Tax Appeal Board from a decision of the Board, upon an objection by the owner of land to an assessment of tax;”

The word “an” was missing, so it was grammatically incorrect. So it is simply putting in the word “an”.

Madam Chairman: Sure. But there is an amendment circulated as well on behalf of Sen. Mark. So, Sen. Mark, could we deal with your amendment please?

A. In Clause 3(b) insert the following new sub-paragraphs:

“(iii) in the definition of “owner” by deleting the words “or occupier”;

(iv) by deleting the definitions of “capital value”, “commercial land” “industrial land” and “residential land”;

(v) by inserting the following definition in the appropriate alphabetical sequence:

“land” includes land of any tenure, houses and other buildings, mines and minerals, and other corporeal hereditaments; also a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, and also an undivided share in land; and in this definition “mines and minerals” include any strata or seam of minerals or substances in or under any land, and powers of working and winning the same; and “hereditaments” mean real property which under an intestacy devolve on the next of kin;”

B. In Clause 3(c):

In the proposed new subsection 2, by deleting the word “multi-owner” in paragraph (c).

Sen. Mark: Thank you very much, Madam Chair. We are proposing for the

Minister's consideration, first of all, when you look at the definition of "owner" in the parent Act, you would see, Madam Chair, that the owner—the definition includes the owner or occupier of any land—and it goes on to explain what land—well, that means that is owner.

Now, we have a challenge here, Madam Chair. If somebody takes out a mortgage with a bank, signs a deed, it becomes law, it is registered. We pass this law, property tax is now administered at the rate of 3 per cent on residence. The question here is from a legal perspective. I am not the owner of that property, I am just paying the bank mortgage payments and am in that property, temporarily, until I am able to complete my payment. If I fail to meet my obligations in a 25-year mortgage, the bank would seize my property.

So, I am asking the question here, and I am suggesting to the hon. Minister, that the owner as defined in the parent Act, right, should not include occupier. Let the owner be the owner, but the owner cannot mean the occupier, Madam Chairman, because as I said, if I have a mortgage with a bank, Madam Chairman, I have made my position clear, I do not have to repeat myself. So I am asking the Minister to give consideration to that. Thank you.

Mr. Imbert: Madam Chairman, sorry—

Madam Chairman: No, before Minister, Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam Chairman, and I just want to endorse the point that Sen. Mark has made, because as we know—I know the Minister said he got the point, but just to reinforce that the legal interest in the property lies with the bank, and the equitable interest would lie with the person who would be subjected to the mortgage.

Now, I also believe that we should remove the definition—within the definition, "occupier", because of our policy decision in terms of— This would

allow you all to tax squatters; persons who have no legal interest in land. So I believe that this occupier should be removed, and it will also cause other issues, for example, where someone, for example, a tenant, and a landlord, the landlord and tenant relationship, the tenant is the occupier, whereas the landlord is the legal owner. If a tenant—I am speaking about, let us look at the statutory leases; the 30-year leases, whether or not the landlord or whether or not the tenant will be liable to pay the tax, because most of the time, it is the tenants who actually are the ones who pay the taxes for the house that is on the property. And that is my submission on this.

Madam Chairman: Minister.

Mr. Imbert: If we were to accept the argument, then all persons who have taken out a mortgage loan for property would be excluded. That does not make any sense. The owner is the person who has title to the property. Just because you have a mortgage loan, that does not mean anything. It is only if the financier moves to take ownership of the property because you have defaulted on your loan payments and the process is completed, whatever process it is, whether they have to go to court and get an order of the court, it is only then that the ownership changes. But the owner is the owner from the time that you have received title to the property. So I am afraid I cannot accept your argument.

Sen. Mark: Yeah, but, Madam Chair, my colleague raised a point about the landlord/tenant relationship—

Mr. Imbert: No, but let us deal with it one by one. So I am just dealing with the person who has the title to the property; their name is on the deed. Their name has not been removed from the deed. There is no court action to remove them as the person with legal title to the property. I cannot accept that it would make any sense to say because you have taken out a loan on the property and because there is

a mortgage on the property, that you should no longer be deemed to be the owner. I cannot accept that.

With respect to the tenant, the arrangement is that the tenant then deducts the tax from the rent and—

Sen. Mark: The landlord you mean?

Mr. Imbert: The tenant deducts the tax from the rental payment to the landlord. It is just to facilitate tenants. The owner who is landlord may not be paying the tax. And you do not want a situation where there is a move to take possession of property. The tenant is there paying their rent on time and so on, but the owner is not paying their property tax. You are allowing the tenant now to pay the property tax and deduct it from the rent. So that is the reason for that.

With respect to squatters, I would like to know what we are supposed to do. Because if we look at one of the amendments, which I am not saying we are necessarily going to accept it, but one of the amendments proposed by someone else to another clause is that the revenue from property tax should be used to finance the operations of local government. So that is to provide services: collection of garbage, maintenance of local roads, maintenance of local watercourses; maintenance of recreation grounds. And the squatting communities, I can tell you from my own constituency—I have squatting communities in River Estate, in Blue Basin, in Water Wheel, in Bagatelle and there are substantial infrastructure that has been placed in there by the Government using taxpayers' money. We maintain the roads; we collect garbage; we provide them with services. Who is supposed to bear that responsibility for providing these services and to upgrade these communities?

So whereas the squatter does not have title, certainly in that particular case the communities I have mentioned there, many of those people have certificates of

comfort. They are not going to move from there. They will eventually get statutory leases; they will eventually get long term leases for the property; they will eventually get title. Why should we exclude someone who is squatting on property and does not have title but is enjoying local government services at the location? If I could get an understanding of the thinking, then perhaps we could develop this point.

Madam Chairman: Before, Sen. Roach you wanted to say something?

Sen. Roach: No, I was just listening to what Sen. Mark had said before, but listening to the analysis given by the hon. Minister does in fact make sense, because when you have a mortgage, there are basically two things. You have the legal interest, you have the equitable interest and what you have given up when you have the mortgage is the legal interest but you maintain the equitable interest with a right to redeem once the mortgage is liquidated. So it makes sense what he is saying.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam Chairman. Minister, with respect to the point on the mortgage again, I noticed that on the TTMF website, it indicated that the HDC tenants—not the tenants—the HDC persons who would have been allocated houses, that the property tax will be included in the mortgage payment. I got this from the TTMF website. I can pass a copy to you if you would like.

Mr. Imbert: That is no problem. But what TTMF does, if you would just allow me to interrupt, I apologize for interrupting. They facilitate borrowers with all sort of things. They lend them money to buy appliances and they lend them money to—*[Interruption]*

Sen. West: Insurance.

Mr. Imbert:—for insurance of the property. So this is just part of a package to

assist purchases of property to get cash flow at the beginning to deal with these issues and then they pay for it over the period of the loan.

Sen. West: And what TTMF does as well is that they take on the responsibility for the payment, not the cost, but the responsibility to reduce the likelihood of the property being seized for non-payment of water rates and property tax and so on.

Sen. S. Hosein: Is it that TTMF would be the body paying the taxes?

Mr. Imbert: No, that is an option, you know. The person does not have to agree to that, you know. When you go to TTMF you are simply borrowing money to buy property. You do not have to agree with them that they will take on the responsibility for property tax, because you might find yourself in trouble on the flip side, where they do not pay it. So you are there paying your mortgage loan and TTMF not paying your tax. Next thing somebody comes and seize your property. So it is an option. It is not mandatory.

Sen. S. Hosein: Okay. And the other point with respect to the tenant, Minister, you gave an explanation that it would be reduced from the rent. Is that found in the body of the Act?

Sen. West: It is.

Sen. S. Hosein: It is. Can you just point me to the section please?

Sen. West: I will find it for you.

Sen. S. Hosein: Sure. Thank you, Minister.

Madam Chairman: All right, so Members—Sen. Obika.

Sen. Obika: Thank you, Madam Chair. Through you to the hon. Minister and forgive me if it is already in the Act and you can explain. I understand the role of TTMF which is a risk mitigating factor to protect the integrity of the asset of the loan to pay the tax. But for the instance where a title-holder may have a tenant, is it that we are going to ask the title-holder's permission to allow the tenant to pay

this tax or title-holder will be involved in this transaction in the event that persons do not settle on lands without the knowledge of the title holders and decide to pay taxes so that they can do some adverse possession, if that is the correct legal term.

Mr. Imbert: The section is section 31, and this is an original section. It is in the existing Act. So this would have been passed since 2009. And it says:

“(2) Notwithstanding subsection (1)”—which is simply the payment of tax—“the amount to be collected from the owner of land may be collected from the tenant or occupier of the land or any part thereof and the tenant or occupier may deduct the amount paid from the rent payable by him in respect of the land.”

So I would think this is really something that has to be resolved between the owner and the tenant.

Sen. Obika: It does not say that, it does not say that. Now my question, just permit me because my training is in more finance than—but does it provide protection for the owners of the land so that they would be aware that a tenant is going to be paying this property tax? That is basically the question that I have.

Mr. Imbert: It would have to be an arrangement worked out between the owner and the tenant.

Sen. S. Hosein: Minister, in the event that there is no arrangement—

Mr. Imbert: The owner is liable.

Sen. S. Hosein: But let us just say that the both parties paid the taxes. Is there a system in place so that the Authority does not collect tax from both the tenant and the land owner?

Mr. Imbert: I would hope that would not happen. You can only collect from one.

Sen. S. Hosein: But if there is a system—

Mr. Imbert: I would hope that not happen.

Sen. West: The assessment role would identify the quantum of tax payable every year on the property. So the board will not accept any more than that.

Sen. S. Hosein: Sure.

Madam Chairman: So, Sen. Mark we dealt with one aspect of the amendments circulated by you, let us move on to the 3 A (iv).

Sen. Mark: Madam Chair, again we looked at these definitions, which are, “capital value”, “commercial land”, “industrial land” and “residential land”. We could not locate—except a little oversight on my part, but these things are more applicable to the previous Bill that we passed, which is the Valuation of Land (Amdt.) Bill and it is associated with the Valuation of Land Act. And we were trying to see the link between these definitions that we have here and its relationship to what exists in the body of the law and we have not seen any relationship between these concepts and what is contained in the various clauses or provisions. So we think it is rather redundant—

Mr. Imbert: Sen. Mark, let me help.

Sen. Mark: Yes.

Mr. Imbert: The tax rates in Schedule I, go to the back of the—do you have the original Property Tax Act?

Sen. Mark: Yes, I have the original.

Mr. Imbert: If you go to the back in Schedule I you will see there is a definition of commercial—not definition, but it is an application of commercial land and industrial land and residential land. So the tax is associated with residential, commercial and industrial. With respect to your first point, “capital value”, the legal people who are assisting me are looking at that point.

Sen. Mark: Okay.

Mr. Imbert: It may not be necessary to have the capital value in this Act although

this has been here since 2009, but it may have been an oversight since then.

Sen. Mark: Okay.

Mr. Imbert: So with respect to the “capital value” definition, we are looking at that, but there is a requirement to have residential, commercial and industrial because that is applied in Schedule I. Okay?

Sen. Mark: Okay.

And whilst we are looking for that, Ma'am, can I go on?

Madam Chairman: Well, Sen. Hosein wants to say something.

Sen. Mark: Oh yeah, sorry, sorry, sorry.

Sen. S. Hosein: Minister, so your explanation with regard to the residential, commercial and industrial: Do you think it would be prudent now to amend Schedule I to actually use the words, “residential land” because the definition has the word, “residential land”? The Schedule only has the word “residential, commercial and industrial”. It does not used the word “land” together with it.

Mr. Imbert: You have to go to the Valuation of Land Act. For us to accept your proposal, we will have to look at the Valuation of Land Act to see if by taking out the word “land” or adding it in the Schedule as the case may be—

Sen. S. Hosein: It is just to—

Mr. Imbert: No, I understand what you are saying. If the Schedule said residential, commercial, industrial, it does not have to word “land” in it. But if you look at the definition of “commercial land”, “residential land”, et cetera in the original Act, it ties back into the Valuation of Land Act. So we will just look and see why the word “land” is used in the definition.

Sen. S. Hosein: And not in the Schedule?

Mr. Imbert: Yeah, we will look at that. I am told although I am a bit nervous about this, so I am going to ask them to double check and triple check, that you

might be right, [*Laughter*] that we do not need “capital value”. But I am a little nervous about that.

Madam Chairman: Sen. Mark, can you move on to (v)?

Sen. Mark: Yeah. Madam Chair, again through you to the hon. Minister, we do not understand, hon. Minister—if you go to the original Act or the parent Act, look at the definition of land and look at the definition of land under the Conveyancing and Law of Property Act, Chap. 56:01. We are seeing a variance. We are seeing variations. We were saying that we do not understand why the inconsistency in terms of the definition of land—

Mr. Imbert: Right, but this is an old Act, eh. This definition has been on the books now for nine years, eh. I am a little hesitant to tamper with it unless I understand the implications of tampering with it. If you could actually look at the definition itself, let us put aside your proposed definition for the time being, let us look at what is there.

- “(a) all land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, or any estate or interest therein, together with all paths, passages, ways, water-courses, liberties and privileges;
- (b) land covered with water; and
- (c) all buildings, or any part of any building, and all structures, machinery, plant, pipelines, cables and fixtures erected or placed upon, in, over under or affixed to land;”

So what you are saying now:

“Land of any tenure, houses and other buildings, mines and minerals, and other corporeal hereditaments”—are—“rent and other incorporeal...”

Where did you get this from?

Sen. Mark: From the Conveyancing and Law of Property Act, Chap. 56:01.

Mr. Imbert: What I am being told is that the definition in the conveyancing legislation is an older definition and includes things that are not relevant to the Property Tax Act.

Sen. West: And excludes things that are—

Mr. Imbert: I am hearing excludes, but it includes things that are not relevant to this law and I am now hearing also, exclude things that are relevant to this law. So this definition was developed specifically for the Property Tax Act. That is what I am told and this definition you have pulled here is quite an old definition from another piece of legislation. So I would leave it for now.

Sen. Khan: Just for clarity, conveyancing, you can convey surface rights and you can convey mineral rights if it is old Ordinance land. So this takes into consideration minerals and mines—

Mr. Imbert: That was the thing that bothered me that you see if you use this—

Sen. Khan: Yeah, but, property tax has nothing to do with the mineral rights.

Mr. Imbert: If you use this you are going to be applying tax to oil and I am not sure we want to do that. Okay?

Sen. Khan: In certain cases where people have private mineral rights, we can fill the surface rights and still keep the private minerals.

Mr. Imbert: There are people that have oil wells on their land, their private land. You might have a deposit of gravel on your land and what this is doing is attracting property tax to the value, not just of the land itself, but everything below, any minerals or oil, hydrocarbons in it. I would not want to go there. That is going to make it worse. Okay.

Madam Chairman: Sen. Mark, the last part of your amendment.

Sen. Mark: I will ask Sen. Hosein to deal with the last part, the multi-owner.

Sen. S. Hosein: Minister, with regard to the—if we look at subsection (2)(c):

“a single commercial accommodation is part of a multi-owner building each single commercial accommodation shall, for the purpose of liability...”—right.

When I read that, it uses the word “multi-owner building”.

Mr. Imbert: Yeah.

Sen. S. Hosein: Now, I wanted to understand why multi-owner? What if there is a building, a single owner, and there are multiple commercial apartments in that building. Would that person now not fall within this definition?

Mr. Imbert: No.

Sen. S. Hosein: So we just propose to take off multi-owner and just read as of a building.

Mr. Imbert: No, I will tell you why. You have many buildings where a person owns that part of the building that they are occupying and then they have a share in the ownership of the common areas. And a typical condominium building is like that. So you own your condominium or apartment that you occupy. Then there would be other areas like a staircase and elevator, a lobby, a parking area and you would own a share of that.

So you are a multi-owner. There are multi-owners inside of a building of that nature. You do not own the land below, the building, but you own a share in the land below the building. So that is why multi-owner is there.

Sen. S. Hosein: While I accept that, Minister, I believe that would be more applicable to subsection (b), where they spoke of single dwelling accommodation.

Mr. Imbert: No, they could be commercial too.

Sen. S. Hosein: So I was thinking if you remove multi-owner it would be a wider definition.

Sen. West: No.

Mr. Imbert: No.

Sen. West: What would happen is, if we remove multi-owner, is if you have a commercial building that is owned by different people, then each individual owner would not have a liability for his portion of the building. We are seeking to address that here.

3.30 p.m.

Mr. Imbert: I do not know how familiar you are with the situation in the United States, but you could have a 50-storey building and persons own a floor. That is a commercial building. I am not sure how common that is in Trinidad and Tobago, but I am sure there will be commercial buildings where people will own a floor, or part of a floor, or something like that. So this is designed to—

Sen. S. Hosein: So it would capture that.

Mr. Imbert: Yes.

Sen. S. Hosein: Sure.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Thank you very much. Would the Minister please tell us, does the term “multi-owner” not suggest that if the building is owned by several members of the same family, or other unit, then such persons are individually regarded as owners? He seems to be thinking only of a situation where each unit of the building is owned by a separate commercial entity, and then they own common parts—

Mr. Imbert: Yes, that is the thought process.

Sen. Prescott SC:—but if the family members of family “A” all own the building, do not the words “part of a multi-owner building” point to them as well, that they are multi-owners?

Mr. Imbert: What do you propose?

Sen. Prescott SC: When I first read it, until I heard you speak, I thought it was meant that this subclause was really addressing multi-occupiers.

Mr. Imbert: No, it is multi-owners.

Sen. Prescott SC: And I realize from listening to you that it is not that and that you are saying—

Mr. Imbert: Because if you move along, it says each single commercial accommodation “be deemed to be land”. So that it is really multiple owners of one property.

Sen. Prescott SC: The purpose of this part, therefore, is to impose the tax on each person who is in accommodation of each part.

Mr. Imbert: Who owns a part of the building, yes.

Sen. Prescott SC: So the language really should be slightly different, because today it means all the members of my family, insofar as we own a single commercial building jointly, when, indeed, that is not what you mean. You mean each of us has a discrete ownership in respect of a portion of that land.

Mr. Imbert: That is what we mean. But I would think if more than one person owns a building—

Sen. Prescott SC: So we may need to ask you parliamentary people or the Attorney General to look at it.

Mr. Imbert: I am just making a point. I would think if a property is owned by a number of people—

Sen. Prescott SC: It is a multi-owner building.

Mr. Imbert:—then that collective is liable to the tax. That group of people is liable to the tax.

Sen. Prescott SC: And it becomes a multi-owner building.

Mr. Imbert: Not in the sense we have here.

Sen. Prescott SC: Well, in order to avoid the ambiguity, I think you are agreeing that we should at least look at it again.

Mr. Imbert: Sure. Of course.

Sen. Prescott SC: While I have your ear, may I move to something else regarding section 3?

Mr. Imbert: Sure.

Sen. Prescott SC: The reference that has been made a bit earlier to section 31(2) caused me to enquire whether insofar as section 31(2) provides for rent to be collected, it is exigible by law. It that what you mean? Or do you mean, amount to be received from the owner. It says:

“Notwithstanding subsection (1)—that is the owner shall pay—“the amount to be collected may be collected”—by the authorities, of course—“from the tenant...”

Is that something that is exigible from the tenant? Or you mean we may receive it from the tenant? So the tenant comes in and pays in the name of the owner. The use of the word “collect” suggests a mandatory obligation on the part of the tenant that somebody may come up to him one day and say, “I have come to collect the tax.” And he or she may not say, “I am not the person you want”, under 31. I think Sen. Roach is of a similar view.

Mr. Imbert: Well, if you look at subsection (3)—

Sen. Prescott SC: Yes.

Mr. Imbert: So that when I rent this building there is an agreement between myself and the landlord as to who is liable.

Sen. Prescott SC: Yes.

Mr. Imbert: So that if you come along and you tell me, look, you are the tenant, I

want the tax from you, but as part of my rental agreement I am not liable for the tax, then you cannot collect it from me.

Sen. Prescott SC: So we seem to be shifting the burden to the tenant to demonstrate that it is not his responsibility, when clearly, the prime responsibility must be the owner.

Mr. Imbert: It is the owner.

Sen. Prescott SC: So we may wish to say instead, Minister, “Notwithstanding subsection (1) the amount to be collected from the owner may be received from the tenant.” So I think we do this with the assessment. They tend to go into the Wardens Office and say, “I came to pay the land tax in the name of John.”

Mr. Imbert: I got the point. I am going to consult. Yes, we will accept that change.

Sen. Prescott SC: I am much obliged to you. I have one further suggestion, again, for clarification, in relation to clause 3. Is what is recommended in the Bill as opposed to the current suggested amendments, the new 3(1) and 3(2) to be regarded as part of the interpretation section? Pardon me, 3(2), not 3(1). Is 3(2) an interpretation of something?

Mr. Imbert: 3(2)?

Sen. Prescott SC: Yes. In the Bill clause 3(c) speaks of an amendment to subsection (2)—well, an introduction of a subsection (2), and I wondered what it is defining or interpreting. It does not appear to be doing such a thing. It should be a standalone clause, should it not? I am sure it is not just cosmetics.

Mr. Imbert: It is an interpretation. It is deeming these types of properties to be land.

Sen. Prescott SC: What? I beg your pardon, Sir?

Mr. Imbert: It is deeming these types of properties.

Sen. Prescott SC: So it comes under the definition of “appeal” or what?

Mr. Imbert: Appeal?

Sen. Prescott SC: What is this definition in 3(2)?

Mr. Imbert: 3(2)?

Sen. Prescott SC: Section 3 of the Act is the interpretation—

Ms. West: Yes, that is the interpretation section and this is subsection (2).

Sen. Prescott SC: The parent Act, section 3 in the marginal notes says a number of things, makes a number of references and says we are interpreting these things. If you want to interpret “appeal” you may look at the word “appeal”. If you want to interpret the word “board”, you know where to find it. What is the new—in the Bill, what is 3(c) interpreting, the one that says:

“Where—

- (a) a building occupies separately from other buildings, a location”—et cetera.

Ms. West: It is the ordinary definition of land.

Sen. Prescott SC: It seems to be a standalone, and although marginal notes do not necessarily determine how we interpret an Act, it might appear to be better laid out somewhere else. I do not know if there are any other legal people here who might have a second view.

Mr. Imbert: So you are saying that rather than put it as a definition—

Sen. Prescott SC: Sorry. I am saying it is not a definition, so it ought not to be in 3.

Mr. Imbert: So rather than putting it into the definition section as a definition, it should be on its own.

Sen. Prescott SC: Standing alone, yes. You may want to introduce a new 4, or whatever.

Mr. Imbert: This is the interpretation section of the original Act, eh.

Sen. Prescott SC: Yes, and, Madam Chairman, I am saying, so what is 2 interpreting? What is it describing, defining, making clear?

Mr. Imbert: What my people are telling me, that we could—to avoid the interpretation that you have arrived upon—

Sen. Prescott SC: My interpretation of the interpretation.

Mr. Imbert: Yes, that is right. To avoid the interpretation that you have arrived upon, we could say, “For the purposes of the definition of land”, instead of “where”.

Sen. Prescott SC: Might I recommend a new section, Sir?

Mr. Imbert: Where would you suggest we put it?

Sen. Prescott SC: Any number you like, a new 4. [*Laughter*] I would not put it at the end. I will say a new 4.

Mr. Imbert: It cannot be too far away from this, you know.

Sen. Prescott SC: Beg your pardon?

Mr. Imbert: It cannot be too far away from here, you know.

Sen. Mark: I think you should think about it.

Madam Chairman: I think, yes, Members. I think, Minister—

Mr. Imbert: All right. I am quite happy to make it 3A. Instead of as it is in the parent Act, section 3(2), I will make it section 3A.

Sen. Prescott SC: I am much obliged to you. If your parliamentary drafts people are satisfied with it, so am I.

Mr. Imbert: We are going to sort that out. Well we will put a big “A”, and make it 3A. Okay? All right. So we will sort that out. All right, then.

Madam Chairman: So, Sen. Mark, we have gone through all the elements of your proposed amendment. Minister, you were to revert to Sen. Mark on the issue

of “capital value”, whether it should be deleted. We now also have to do some amendments with respect to 3(2), so I will stand this down so that the proper drafting can be done. Okay? So clause 3 is stood down.

Clause 3 deferred.

Clause 4 ordered to stand part of the Bill.

Clause 5.

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

Madam Chairman: There are amendments circulated by Sen. Mahabir and by Sen. Mark. So, Sen. Mark I will treat with yours first.

A. Delete Clause 5

B. Renumber Clauses accordingly.

Sen. Mark: Yes. Madam Chair, it is our view on this side that this is a very unnecessary development at this time. We feel that the Government is really going to encourage large-scale land grabbing, squatting, because what this is giving is a licence. We have laws in this country that regulate squatting in this country, and what the Government is seeking to do is to impose a tax on persons who might be, in two instances, occupying land without, let us say, title. So on the one hand, Madam Chairman, you have people with certificates of comfort and they are waiting to go through the processes to get, for instance, regularized properly. That is one category we are talking about, and they have not arrived there as yet. Then you have new visitors on the compound of the State, and these are people, and so on, who might not have satisfied the legal requirement under the law.

I do not know what the Government is seeking to capture here. They have not indicated, in terms of policy, whether they are focusing on those legitimate persons who are in occupation and they have, what is called, this letter of comfort, and they are going from one stage to another stage until they get title, or whether

the Government is saying, anyone who is in occupation of state land in Trinidad and Tobago, and the Government is able to identify them, their army of personnel would be visiting you and you will have to fill out whatever you have to fill out, and you will have to pay property tax. So the policy question is not too clear and I think that we need to get clarification, because that is why we are proposing it be removed completely from the legislation.

Madam Chairman: Minister.

Mr. Imbert: If we accept the arguments put forward as to why we would want occupiers of property to pay property tax because they are receiving services, why would we want to create a situation that if you collect property tax from an occupier, that that might lead to that person getting title?

Sen. Mark: No, but what I am saying is that I have asked a question and you are likely to clarify it for me. You and I are aware that you have about 30,000 or so, persons, or even more, occupying lands that are not theirs.

Mr. Imbert: Thirty thousand?

Sen. Mark: Or more?

Mr. Imbert: That is in one town.

Sen. Mark: Well, you have about 80,000.

Mr. Imbert: More like 300,000.

Sen. Mark: Let us say about 80,000, 100,000, whatever. But the point I am not making, Madam Chair—and I would like the hon. Minister to clear it up for me—are you saying that once you are occupying, hon. Minister, this section 5 would capture you? Once you are occupying illegally, that would capture you? Or are you saying, those persons who are in occupation of state property, state land, but they have certificates of comfort and they are moving towards getting title under their 30-year statutory leases, these are the people that you are targeting to pay

taxes, not those people who might have been occupying property after the 1st of January, 1998? That is what I am saying as a policy, let us clear.

Mr. Imbert: Hold a second. How does that point affect this? Because all this is saying is that if you pay, you do not own property. You are on it. You have a house on it. We ask you to pay tax because you are receiving local government services. But we are saying, the fact that you pay tax does not entitle you to get legal ownership of that property. How does this clause affect the point you are making?

Sen. Mark: But is that not a conundrum we are finding ourselves in? I am in illegal occupation, you are saying that I have to now pay taxes.

Mr. Imbert: Yes.

Sen. Mark: I am saying that strengthens my hand to say, “Listen, you want me to pay taxes to Government, then you do things to regularize me. Get me my legal status. Give me my statutory lease. Make me a legal owner of my property in the Republic of T&T.” Would that not be a legitimate expectation?

Mr. Imbert: That is exactly what we are trying to avoid. Sen. Roach, you want to say something?

Sen. Roach: Madam Chair, with your permission, if I can just shed some light and probably draw an analogy. In law, you can be an illegal occupier of property and somebody trespasses on your property, and you can have a legitimate action against that person, unless that person could come to show that they have title over your illegal possession. So right away an illegal person occupying land, in common law, is recognized as having some sort of a superior trespasser. So even though he is not the owner of the land, he is in occupation of the land, and in law there is a difference between ownership and occupation—possession and occupation. So in this instance, where the Government is seeking now to attract

taxes once you are on the land, whether you are in the process of regularizing, or whether you are not regularizing, the fact is that you are on land and you are accessing services. You are being visited with a tax, which, in itself, is not to me offending the principle behind the ownership, the occupation and the utilities that come with the fact that you are in possession or occupation or enjoyment of land.

So I am just using the analogy of a trespasser, trespassing on land that is illegally occupied. The person who is in illegal occupation has some right over that person who is trespassing, and therefore, there are rights already there for that person enjoying that land, and you cannot dispossess that person unless you can show a superior title to be in possession. I do not know if Senior Counsel Prescott, can add any clarification on what I am saying here, because I know he is a—

Madam Chairman: Well, Sen. Obika has asked to speak. Sen. Obika?

Sen. Obika: Madam Chairman, apologies to Senior Counsel. I really would not want to come after a Senior Counsel, and I basically just want to make the point of a social contract. I understand the Government's desire regarding the fiscal responsibilities. However, if they can consider, as a social contract with the people, to remove this clause. And that is basically it.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: But what I say may or may not add some light. I gather that so far all the contributions appear to be thinking, or surrounding occupation by one person, of state lands.

Mr. Imbert: Or private land.

Sen. Prescott SC: It is very, dicey is the word I would like to use. It becomes a very dicey proposition if you are on private lands, because the true owner may have fallen asleep on his rights, but he is entitled to do so for the next 16—I think is the correct number—

Mr. Imbert: Sixteen.

Sen. Prescott SC:—of years before he takes a step. And when he has taken that step, whatever you may have done to enhance the value of the land does not necessarily revert, or bring value to you, the trespasser, that is. It appears to me that one has to be cautious, because today people are paying—people who used to pay taxes to the Warden's Office, went in and managed to get a receipt that did not refer to the fact that this was not the true owner—

Mr. Imbert: Correct.

Sen. Prescott SC:—and then eventually when the matter came to court and the true owner has sought to embark upon his rights, they are able to demonstrate a number of such steps that gave them some legitimacy. And then, poor fella, the private owner who has been sleeping, has to go away and try to negotiate some compensation. In short, I am hearing from all the contributors so far that they are concerned that what has been put down by way of clauses in the Bill do not quite eliminate the chance of a squatter who has strategized his way to true ownership. No hurdle has been put in his way. In fact, what we have allowed him is a hands up.

Mr. Imbert: What I am picking up, Sen. Prescott, is not that, you know. I am picking up quite the opposite, that they do not want us to say this, that if you are paying tax and you are not the owner of the land, that this does not give you a legal entitlement. They do not want us to say that.

Sen. Mark: Well, if that is correct, I am probably more on your side than theirs.

Mr. Imbert: I thought you were. [*Laughter*]

Sen. Prescott SC: And I cannot see why we would not want to say this.

Madam Chairman: Sen. Richards.

Sen. Richards: Thank you, Madam Chairman. To both Ministers: I appreciate

the Government's perspective that if someone is illegally occupying land and services are being provide by the State, that they should contribute, because it would be unfair to those who are legally occupying. What is unclear to me, and what is of great concern to me, is the fact that as Sen. Prescott indicated, and I guess by extension Sen. Roach, that the valuation is done on the property just like everyone else, to determine what should be paid, and there seems to be no clause or caveat to further limit that person from going and occupying more land. Because, well, it seems to subtly encourage me, although that is not the stated intention—and Minister West indicated in her winding up that she knows of a gated community illegally occupying—well, if I were that gated community, I would expand. Let you value it and pay the land. And there should be some mechanism or clause in this to indicate that—to discourage that, because I know—and I love my people in Trinidad and Tobago, but I know in many instances that people are going to look at this as an encouragement of some type, or a subtle encouragement to continue, or go on a land-grabbing spree, in some instances.

And what is in this Bill—and I know Minister West indicated that we are straggling two different liabilities legally here, but people may not be au courant with those nuances, and we may be subtly indicating, well, pay the tax, get your illegally occupied land valued, pay the tax and then maybe I could grab another acre somewhere else. You will pay the tax.

There should be something in this to indicate that if you extend that situation, you will be removed by the State, or something. Because as it is here, it is way too open to all kinds of interpretation by the public, erroneous at that, and we may be finding ourselves in a really sad situation with private lands, as Sen. Prescott said, in addition to state lands, where we set off a chain of events that we find really untenable in the future.

Madam Chairman: Minister.

Mr. Imbert: I am sorry, I was hearing some clarification here. Go ahead, Minister West.

Sen. West: I hear you, Sen. Richards, but the State already has the authority to take action against people who are squatting illegally. And what we need to do is take a clear decision as to how we will treat with them. So if somebody is in, like a gated community, and decides to expand, we already have the power to go after them. So to add a comment to that effect in the legislation, I do not think takes us any further. What we have to do is action the powers that we have.

Sen. Prescott SC: Sir, may I enquire? Sen. West, were you suggesting that there is law that permits you to go against squatters on private lands?

Sen. West: No, I was talking about the fact that squatting is illegal and therefore we can take action against the squatters. The example I had given to Sen. Richards earlier that he referred to had to do with state land.

Sen. Prescott SC: I see.

Madam Chairman: Sen. Roach.

Sen. Roach: Madam Chair, what I would like to add here is just to say that this clearly has to be a policy decision from the Government.

Mr. Imbert: Well, this is the Government policy. We do not want to allow people to acquire rights to property just like that. I mean, the thing is going to find itself before a court anyway. The person will make an argument that, "I have been paying tax", and it does not matter what the law says—you know how evolutionary our judicial system is these days, so—

Madam Chairman: Yes. Okay, so having said that—

Mr. Imbert: You never know. It does not matter what is written here.

Madam Chairman: Having said that, Senator, we will now move on to the

amendments circulated by Sen. Dr. Mahabir to clause 5.

A. Delete the proposed subsection (2) and insert the following:

“(2) There shall be a tax liability on the owner of any chattel fixed or affixed to land, who is not the legal owner of the land, but is occupying the land with the permission of the land owner.”

B. Insert the following new subsection (3):

“(3) The liability to tax for persons sixty years of age and over shall not exceed one percent of the annual rateable value of the property.”

Sen. Dr. Mahabir: Thank you very much, Madam Chair. Madam Chair, my position is similar to that raised by Sen. Mark. Let me preface a bit by stating that it is recognized that squatters are trespassers and they are breaking the law. My amendment, therefore, is meant to levy a tax only on people who are occupying land with the permission of the landowner, not to anyone who is breaking the law. And the permission of the landowner would mean either on private land, a relative is occupying the land via some chattel with the permission of the owner as in extended families and that there is a tax liability there.

With respect to state lands, I am recommending that when someone who has occupied it illegally in the past, and he has been given something like a letter of comfort so he is in the process of being regularized, then I say that that individual, who had broken the law in the past but is now recognized as being in compliance by the State, by the law with respect to letters of comfort, and/or other types of agreements, be then part and parcel of the mainstream law of revenue collection. And, therefore, my amendment is that only when someone is occupying the land with the permission of the owner—and the permission can take many forms—that the tax liability arises.

You see, Madam Chair, squatters come in different guises. Sen. Mark

alluded to the point, there are those who have been on land for a number of years and the State has a policy on that. And then there are those who are going to occupy tomorrow, and the State will have a policy on that. There are some squatters' buildings which cannot be demolished via action by anyone, and then there are some squatters' habitations which can be demolished. And I think, in the interest of complying with the law, we seek some permission, at least with the owner, and in the interest of equity—if you were not to define who is liable, in the interest of equity you may very well find squatters who have no letters of comfort paying their property tax dutifully, according to the law, and having their habitations demolished without much notice. So I am recommending my amendment as follows:

There shall be a tax liability on the owner of any chattel, fixed or affixed to land who is not the legal owner of the land but is occupying the land with the permission of the landowner.

And I would recommend that, as Sen. Mark alluded, we remove 5(2) but you replace it with my amendment. I wait for the Government's response.

Mr. Imbert: Madam Chairman, that would eliminate all squatters.

Sen. Dr. Mahabir: Including letters of comfort? Letters of comfort means that you have the permission of the owner of the land. It is a letter that you have been recognized. It is a legal instrument. So it would not eliminate those—

Mr. Imbert: What about squatters on private land?

Sen. Dr. Mahabir: Well, squatters on private land would have to be not treated with for tax purposes at all. They are trespassing.

Mr. Imbert: So that is what I am saying.

Sen. Dr. Mahabir: They are illegally occupying someone's private land.

Mr. Imbert: So what you are saying—and I mean, for us who are elected, it is not

black and white, you know. When you are elected and you go into a community—and I have many communities like this—Dundonald—St. James area, for example, not Dundonald Hill per se, because that is State. But there are other parts of my constituency where people are on private land, and they have been on private land for 50 years and I have to provide them with services because they are my constituents. They voted for me. I cannot go and tell them, “Look, you are squatting on private lands. I doh recognize you as a human being”, or “Ah doh recognize you as a resident and therefore I am not going to put in roads and drains and water supply and electricity.” I cannot do that. There are many constituencies all over Trinidad—I am sure all—where it is an obligation on the part of the MP to try and uplift and improve the standing of living of the people who live there, and they are squatting on private lands.

4.00 p.m.

So, if I went along with what you are saying here, you are saying that although the State may be obliged to upgrade the infrastructure and provide services in terms of garbage collection, and so on, and water supply to squatters on private lands—they should not be taxed. I cannot agree with that. That is the effect of your amendment.

Sen. Dr. Mahabir: Okay. Through you, Madam Chair, Minister, are you agreeing with an amendment which is to come, that the revenue is to be dedicated to local government bodies so that these squatters will then benefit, because it is tied in?

Mr. Imbert: I will explain that when we get there. We do have—I do not want to call it a halfway house, but we have a way where we can have a meeting of the minds, I believe. When we get there, we will see.

Madam Chairman: Sen. Mahabir, there is another component to your

amendment?

Sen. Dr. Mahabir: Yes. With respect to 5 B, if I may read it with your leave, Madam Chair?

Madam Chairman: Well, it is circulated.

Sen. Dr. Mahabir: It is circulated, yes. You see 5 B really refers to persons 60 years and over, and I want to put on the record that I am not over 60, though I do hope to get there at some time. These persons—the tax liabilities shall not exceed 1 per cent of the annual rateable value of the property. Let me defend that amendment, Madam Chair. Currently, in Trinidad and Tobago, we provide a relief to retirees, 60 and over with respect to electricity rates—the Minister in one of his budget presentations did in fact indicate that T&TEC was going to provide some rebate for electricity—water rates, driver's license, passports. There is a reason for that, because the Minister, when she piloted, indicated that being retired simply means that you are no longer earning income, but what it implies is that you have wealth. It means that in addition to whatever pension you may receive, you do have a stock of wealth.

My own feeling is that with respect to the retired population in Trinidad and Tobago, looking at what has happened over the last 30 years or so, it is hardly likely that you are going to find retirees with that large stock of wealth alluded to by the Minister—you may find some—and therefore, my concern is that again, with respect to the claim on public services that these retirees are going to impose—you may have a large house, a number of empty rooms, children have grown up—they are not producing so much garbage, they are not producing so much potholes because they are not driving and therefore, Madam Chair, I am recommending that the tax on the retirees not exceed 1 per cent. Because an additional concern I have is this: any request for relief by an individual who is

retired, my understanding is that it is simply a deferred tax liability, and that when this property passes on, the person who has inherited will then be asked to pay whatever taxes were deferred.

So, in order to avoid property being passed on to a spouse, or to a child—with this tax liability, I am recommending for the consideration of the Government, that a tax liability be fair so it is affordable, and individuals will try in the current dispensation, to the best of their ability, to pay a 1 per cent as opposed to seeking deferrals which will then become an encumbrance on their heirs.

Mr. Imbert: Sen. Mahabir, there are many issues associated with your proposal. Let us start in the reverse order. If I am 60 years or over, and I have industrial property which is generating income, I am not a poor retiree because you have not said anything about means. You have just said age. So, if I have an industrial property the current rate is 6 per cent. So, if I were to agree with what you are saying, all 60-year-olds and over, who own industrial property, would now go to 1 per cent. If I am the owner of commercial properties—I am a multimillionaire owning commercial properties where the tax is now 5 per cent, but I am 60 and over, the tax will now go to 1 per cent.

So, on that grounds alone, I cannot accept the proposal, but I want to make a point. I remember when we introduced GATE in 2004—I was the Minister at the time—and we had to make a decision whether we would have a means test or not, and you had a certain policy objective to achieve which was to increase the participation rate in tertiary education, from then 11 per cent, and we had a target of 60 per cent. So we said, look, let us forget about this means test, it is too complicated. We just said anybody who wants to apply for GATE can do so, and you had people doing three and four and five degrees; you had professional people, lawyers, doctors, accountants—going and accessing GATE just because it was

free. And yes, we hit the 60 per cent, but we then ended up with a GATE obligation of \$700 million a year, because there was no control whatsoever. So that, this Government has now decided to pull back on that, having achieved that participation, and we are now putting in a means test, and so on, so that that benefit goes to the people that deserve it and need it.

Similarly, in a budget in this Government, and me as Minister of Finance, came to the Parliament and said that, if you are over 60—free driver's permit, and I even forgot about it. And as I was telling Sen. Mahabir—because I am 60—that I went to renew my driver's permit a month ago and I sent my driver with the \$500 to get a five-year permit for me—just pay for it and then I will go and do the photograph, and so on—and they sent back the money. “I say, why? They say, well, you are 60”—so that I did not have to pay for my driver's permit. So, whether you are a multimillionaire or not, now—free driver's permit. We did it for passports too. This Government, coming into office—it was one of our manifesto promises—we said, if you are 60 and over—free passport. You could go on the fast ferry, or the slow boat—whatever you want to call it—to Tobago—*[Interruption]* You have to be on the boat to benefit from what I am about to talk about.

Sen. Ameen: You have to have a boat.

Mr. Imbert: You have to have a boat. So that you can go—and by the way, there is a boat. “De *Spirit* runnin and it runnin good”.

Hon. Senator: The *Spirit* is down.

Mr. Imbert: No, the *Spirit* is sailing, “doh worry wit dat”. You can go on the *Spirit* now, and it is free. It does not matter who you are. You can go on the water taxi because we did that as well. The water taxi from San Fernando to Port of Spain. It does not matter who you are—and I remember when we did that. And

again, I had the privilege to do that, as Minister of Works—make that free to everybody, 60 and over. “One day I am coming home and my neighbours who are 60 and over say, ‘Hey, we just went on de water taxi and we didn’t have to pay for it’, and, dey not poor”. [*Laughter*] So that, I am just making a point.

You could take this thing too far. You could take it too far. One of the features of this legislation is that there is a means test, there is a hardship test, and if you are 60 and over and you cannot afford it, you apply for the waiver. And, with respect to the continuing obligation—the pass on, the person who inherits it will have to do the same thing because the children, or the heir of somebody, may be a person of means. So that, whereas the parents may not have enough income to pay the tax, the person who inherits may be able to do so. So that, whoever inherits the property would then apply. If they feel that they do not have means, they are underprivileged, they cannot pay—and if they are deemed to be in an underprivileged situation, then the waiver will continue.

So that, Sen. Mahabir, I am sorry. I mean, I have been part of this thing. As I said, I introduced GATE, I introduced free driver’s permit, I introduced free ferry service, I introduced free passport, and you will have to stop at some point in time and start introducing a means test.

Sen. Dr. Mahabir: Madam Chair, I just need to get clarification on a point raised by the Minister. He says there is going to be a means test, but I have not seen any form, I have not seen any mechanism by which this means test is going to be applied. I am hearing about it now, but I would have thought that as part of this legislation— I know the Minister may be able to make regulations, but is it that we are going to get the requisite information before the Parliament, so we can see exactly the information that is required for someone to apply for the means?

Mr. Imbert: Hold a second, let me find the relevant section.

“23(1) The Board may upon application of the owner of land authorize the deferral of the payment of the assessed tax on the land on the grounds of the impoverished condition of the owner and his inability to improve his financial position significantly by reason of age, impaired health or other special circumstances...”

And 53(1) allows:

“The Minister may make Regulations for the better carrying out the purposes of this Act.”

I can assure you, I do not like judicial review applications. I get them all the time. I have to hire expensive lawyers to deal with it. So that, we would certainly make regulations, but the regulations will come in due course and will come to this House for debate, and at that time we can deal with this whole question as to what are the criteria and the factors that would apply in applying section 23 of the Act.

Sen. Mark: Madam Chair, may I ask the hon. Minister—Hon. Minister, if you go to section 53 of the parent Act—because as you were on that point I just thought I should raise it with you, and I am happy that you mentioned judicial review and that it will be subject to debate, but there are no amendments so far and I would like to, with your leave, suggest an amendment to 53, consistent with your submission where the regulations to be made by the Minister shall be subject to an affirmative—

Mr. Imbert: “Nah”, negative.

Madam Chairman: Sen. Mark, in your list of amendments you have a proposed amendment to clause 24. So, what you are speaking about now, will be discussed later in the proceedings. Hon. Senators, I think we have had enough discussion on the amendments to clause 5.

Sen. Ameen: Madam Chairman, I was trying to get your attention before you

went to the second part with Sen. Mahabir—and it is for clarification from the Minister. In your response to the issue of occupiers having to pay tax, whether they are illegally occupying state land or private land—if it is a private property, the owner of the land would have to pay taxes and the occupiers would have to pay taxes, because the law says that the occupiers would have to pay property tax, but, they do not have any entitlement or claim to the property. So, you could have situations where both the owner as well as the illegal occupiers would have to pay tax.

Mr. Imbert: No, only one, because you have to get on the valuation roll.

Sen. Ameen: But there is no indication as to, for instance, if the occupiers are paying, then the owner—

Mr. Imbert: No, it flows from the Valuation of Land Act. You have to get on to the valuation roll first.

Sen. Ameen: So, would either put the occupier onto the roll, or the—

Mr. Imbert: You cannot put both. So that the tax, after the valuation of the property is done—then you are liable for property tax. So, you have to get on to the roll first. You cannot have both of these people on the roll.

Sen. West: We also have a similar situation with respect to payroll taxes. The legislation makes both the employer and the employee liable, but that does not mean the Board of Inland Revenue collects the tax from both persons. It has the ability to collect it from both of them, but it does not. It will collect from one of the two of them.

Sen. Ameen: I just want to clarify. In a situation where you have persons illegally occupying private land—of course, there are options for the owner to take action to go to court, there are options for the occupiers to apply for the title to be extinguished based on adverse possession, and so on—where does the opportunity

come in, for an owner? Because we have situations where the owner of the land would have been trying to get the illegal occupiers off his land, and when the assessment takes place—when the home of the occupier is visited—the assessment takes place and you are putting him on the roll, what opportunity does the owner have, to say, “that person should not be, this is my land, I am paying tax”? Where does that happen?

Sen. West: In terms of the assessment roll?

Sen. Ameen: Yes. Whose responsibility is it? Is it the State, or would it be the owner, where there is a conflict with regard to the title, or where the— because if the agent of the state, the assessor, or whoever he is—physically goes to the land, they will meet the illegal occupier—squatter. However, they would not meet the owner of the land in many instances. Whose responsibility is it, to ensure that the right person is taxed, or that you do not have double taxation?

Sen. West: Well, the law puts the obligation on the owner of the land to declare his land and ensure that he is properly represented on the valuation roll. So, if no documentation is provided to the State and we go out and we see this land, you are right, we will meet the occupier and we will take that information from him, but it is always open to the legal owner to come and correct the record.

Sen. Ameen: Okay.

Madam Chairman: Sen. Hosein, is it a different point?

Sen. Hosein: Madam Chairman, the question that I would like to ask is: How exactly are we going to collect the taxes from the squatters? Now, I can see that there might be some ease with respect to those who hold the certificate of comfort because you will have someone registered, their name will be registered, you will have an address for them. Now, when we look at the Valuation of Land Act, a person who is squatting—who does not have a certificate of comfort, under the

Valuation of Land Act—he has to fill out a valuation return form. This person does not fill out the form. Under the Act, there are certain penalties. So, for example, we have two or three persons occupying the house—no certificate of comfort—who are we now going to address this notice to, in order for them to come and fill out this valuation return form? Because this person—you have no record of them, how are you going to get these persons to fill out the form, for them to come and pay the tax?

Mr. Imbert: The valuation roll has to be created by the Commissioner.

Sen. S. Hosein: No, I am talking about under the Valuation of Land Act.

Mr. Imbert: That is what I am saying here. So, the valuation roll has to be created by the Commissioner.

Sen. S. Hosein: But would that roll not be completed only when the valuation return forms are submitted to the Commissioner of Valuation?

Mr. Imbert: The Commissioner has the power also to value land, and that is under section 29. The scenario that you are describing—I think it is a bit unlikely because, if the Commissioner of Valuations has to go and value properties, you would certainly start with the easiest ones first.

Sen. S. Hosein: Exactly.

Mr. Imbert: The ones that people have a deed, then you go down to the various categories, down to the certificate of comfort. I do not think there would be any intention to go and deal with complex ownership issues where there is no documentation at all—you do not know who it is—I do not think we will get there.

Sen. S. Hosein: So, it is that we will stop at those who only have certificate of comfort?

Mr. Imbert: No, I am not saying—I do not think we will get there immediately. I think, at some point in time. I am not sure it would be within the next 10 years that

you would be dealing with that kind of convoluted occupation of land.

Sen. S. Hosein: Well then, this would now avoid persons actually making application for certificate of comfort because they will now say, if I apply for the certificate of comfort I will be liable to property tax; if I do not get my certificate of comfort I could stay on the land and I pay no taxes.

Mr. Imbert: But you will never get title because, again, as an elected Member, what is most important to squatters is title, because you cannot go to the bank and develop the property if you do not get title.

Sen. S. Hosein: I agree.

Mr. Imbert: So that, I do not think the scenario that you are projecting is likely. I do not think that would be the first priority of the Commissioner of Valuations, to go after persons where there is no documentation and the actual occupation is contested—five different families in one building, on a piece of land with no documentation whatsoever—I do not think any self-respecting Commissioner of Valuations would tackle that first. I think they will start with people who have proper deeds and then go down the chain, until you get to that complex situation you are talking about. So, I do not think it is a problem.

Madam Chairman: Thank you, Minister. Thank you, and at this stage, Members, it is time. There has been adequate discussion on the proposed amendment to clause 5. So, we will deal first with the amendments circulated by Sen. Mark. The question is that clause 5 be amended, as circulated, by Sen. Mark.

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

Mr. Imbert: With the exception—as I said, I am a little nervous about this—

Madam Chairman: No, we are dealing with clause—

Mr. Imbert: So, do not worry with the capital?

Sen. Mark: We are dealing with 3.

Mr. Imbert: Oh, 3? That is 3. It is all right.

Madam Chairman: Well, could I just tell you all how it is, [*Laughter*] and how it is, is very difficult to keep track. So, I would ask for you all to take some guidance from me. So, the amendments as circulated by Sen. Mark have not been accepted. I now move on to the amendments proposed and circulated by Sen. Mahabir, to clause 5.

A. Delete the proposed subsection (2) and insert the following:

(2) There shall be a tax liability on the owner of any chattel fixed or affixed to land, who is not the legal owner of the land, but is occupying the land with the permission of the land owner.

B. Insert the following new subsection (3):

(3) The liability to tax for persons sixty years of age and over shall not exceed one percent of the annual rateable value of the property

Question, on amendment, [Sen. Dr. Mahabir] put and negatived.

Question put.

Sen. Dr. Mahabir: Division.

The Committee divided: Ayes 21 Noes 8

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Sinanan, R.

Hosein, K.

West, Ms. A.

Le Hunte, R.

Henry, Dr. L.

Singh, A.

Cummings, F.

De Freitas, N.

Dookie, D.

Huggins, R.

Moses, D.

Roach, HRI

Small, D.

Shrikissoon, T.

Chote SC, Ms. S.

Richards, P.

Prescott SC, E.

NOES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Zakour, E.

Mahabir. Dr. D.

Ramkissoon, Ms. M.

Ms. J. Raffoul abstained.

Question agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Madam Chairman: There are amendments proposed to clause 6 by Sen. Mark and the Minister of Finance. Sen. Mark, let us deal with your amendment, please.

A. In subsection (1) insert a new paragraph (n):

(n) land belonging to the University of the Southern Caribbean and occupied by the University of the Southern Caribbean and its servants; and

B. Insert a new paragraph (o):

(o) land belonging to Trade Unions/Associations in Trinidad and Tobago and occupied by Trade Unions/Associations in Trinidad and Tobago and its servants.

Sen. Mark: Thank you, Madam Chair. Madam Chair, I found it very interesting that in the parent Act of 2009/2010, the Government at that time in its wisdom, sought to exempt land belonging to the University of the Southern Caribbean, from the property tax. I do not know if it is an oversight on the part of the Minister of Finance and the Government, but, mysteriously the University of the Southern Caribbean was left out. So, I have included the University of the Southern Caribbean, and the same land belonging and occupied by that university should be exempted, or should be exempt I should say, from the payment of property taxes. I am also proposing—and I want the hon. Minister to be very aware that there are some countries, I have done the research—in terms of New South Wales, you do not have trade unions, and you do not have organizations like the Chambers, whether it is TTMA or the Chamber of Industry and Commerce—they do not pay land taxes or land and building—in New South Wales, they call it land tax.

Now, you know Madam Chair, that trade unions are more or less like—a kind of form of—NGOs. They do not really make money—[*Crosstalk*] Yeah, they

do not really engage in that kind of activity, as you will find in the commercial sector. They depend, as you know, on their members for dues and they use those dues to run their operations. So, what I am suggesting for the hon. Minister's consideration, is that land belonging and being occupied by trade unions/associations in Trinidad and Tobago and their servants, not be incorporated or not be included for property tax purposes. I am asking that they be exempted, or they be exempt from paying such property tax. And as I said, I looked at the New South Wales legislation and they have exempted both trade unions and business organizations. So, if the Minister wants, he could include business in this amendment, but I am promoting the trade unions here for exemption. So, I would like to ask the hon. Minister to consider that.

Madam Chairman: Sen. Richards, in respect of the amendment proposed by Sen. Mark?

Sen. Richards: Yes, thank you, Madam Chairman. Let me declare my interest. I am a past student of the University of the Southern Caribbean, so, I do not want that to be hidden, and I am endorsing Sen. Mark's attempt to have the university included—and lands associated with the university, because, although it is not a state or government-owned or administered institution, it is a strong supporter of the community of Maracas/St. Joseph and provides significant social, educational, emotional support to the community in many initiatives. So, I am endorsing Sen. Mark's petition for it to be included in the list of exempted universities. And also, it may be a private institution, but it has never sought—because it is a faith-based institution—to be a profit generating institution as much as an academic and socially conscious institution. So, I am endorsing that. The other part about the trade unions—not so much. Actually, not at all.

Sen. Small: Thank you very much, Madam Chair. I want to join with Sen.

Richards, and I will declare that while I am not a past student, I have had the privilege of being invited to the University of the Southern Caribbean to deliver lectures and I understand they do quite a bit of outreach work and they are really supportive of the community. So, I think that—it is not often I support a proposal by Sen. Mark, but if you recall during my contribution, I had asked the question and I heard the Minister's response. I would like for the Minister to consider again, with respect, if possible. I think that this is an institution that—it encompasses more than the physical land that it is. It is a fixture in the community and because they do a lot of work, they offer a lot of programmes for young people. You know, we have a challenge with young people in Trinidad and Tobago, and they provide outreach services. I think this deserves some consideration. Thank you very much, Madam Chair.

Sen. Chote SC: If I may just put in my two cents, I too have an interest to declare. The first principal was a family friend, but at the same time, I live in the Maracas/St. Joseph community and I am able to see that the university has expanded considerably from where it had initially started off, which means that it is doing well financially.

And while it is true it is faith based and there are programmes for the community, if we were to treat this educational institution in a particular way, then we may be asked why it is that we are not treating similar faith-based educational institutions in the same way. So I unfortunately disagree with my fellow Independents on this matter.

4.30 p.m.

Madam Chairman: Sen. Richards, briefly please, yes.

Sen. Richards: Madam Chair, thank you. Just to add to counter what Sen. Chote is saying with respect, it may have seemed to expand but it may not be doing as

well financially as we think. I am just asking either Minister if there could be some sort of petition, if not granted carte blanche, for some sort of accommodation to be made for the University, petition for deferral as with other entities, somewhere in the legislation. So it may not be a carte blanche thing but if the University finds itself in a precarious situation financially or otherwise, it may, in some way, qualify for a deferral.

Mr. Imbert: Well, I was going to argue with myself because I, too, support reintroducing the University of the Southern Caribbean and Sen. Chote has now confused me. [*Laughter*] I was going to go along with the recommendations made by Sen. Small, Sen. Richards, and say put it back. But I will give you a reason why it should go back in and the reason is that the Government of Trinidad and Tobago—again ironically, I was part of that Government—made a decision to support the University of Southern Caribbean as the third University in Trinidad and Tobago. We had University of the West Indies, we created University of Trinidad and Tobago, and then there was a view—again, this is all part of the Manning administration and all part of the policy to try and increase enrolment in tertiary education. So there was the creation of UTT as a purpose-built technical university serving industry and then there was the view, look, let us try and get as many universities going as possible, to try and get enrolment up.

We, as a Cabinet, I think the number I am remembering in my head, we put \$100 million into the expansion of the University of the Southern Caribbean. So what you saw there is not really a rich institution getting money from tuition fees and from donors. It was the Government and it might even be more than \$100 million that the Manning Government put towards the development programme of the University of the Southern Caribbean that allowed them to expand their campus to where it is right now, right there in the Maracas Valley.

If you look at the definition of the—if you look at section 16 of the parent Act, you will see that 16(1)(b) speaks to:

“school buildings, offices and playgrounds of schools within the meaning of the Education Act;”

So that is currently an exemption that has been there since the enactment of this original Act way back in 2009 and that covers denominational schools; that covers schools approved by the Minister of Education, even private schools. So that schools, at the secondary level and primary level, once they are approved by the Minister of Education, they are exempt from property tax.

So I think there is lot to be said for including the University of the Southern Caribbean. It is not a rich University, it might just have appeared so because of the money pumped into its development programme by the then Government but that programme is no longer in place. There is no longer any programme in our development programme to keep funding the University of the Southern Caribbean. So I would want to agree with Sen. Wade Mark. [*Desk thumping*] “Ah doh know why.” [*Crosstalk*] “Ah getting ah headache, ah getting ah headache.” I will probably have to call for some Limacol and sap my head. [*Laughter*] But I would like to put back what was there before. We do not have to add in “and its servants;”. Let us just put back what was there before:

“lands belonging to the University of the Southern Caribbean.”

With respect to the trade union side of things—yes, Sen. Roach?

Sen. Roach: But is it not already there in the end?

Mr. Imbert: No, but in the law. You see, in the actual Property Tax Act, because we are deleting it in the Bill before the Senate, what was being deleted was:

“lands belonging to the University of the Southern Caribbean.”

So I am just saying let us put it back as it was.

Sen. Hosein: Minister, you want to add “and occupied by”.

Mr. Imbert: Yes, and occupied.

lands belonging to and occupied by the University of the Southern Caribbean.

And with respect to trade unions, I was just reminded by Sen. Khan that the Petrotrin bond equivalent of TT \$5 billion is held by the teachers union of the United States so that there is no magic formula that one can apply to any particular trade union. There are some trade unions that are quite wealthy, there are some trade unions that are struggling. If you add in business organizations, I mean, “where yuh gonna go with this thing”? Why business organizations? Why not sporting clubs? Why not a football club? So you know, you could take this thing too far and I do not think we should agree to land belonging to trade unions. I understand your point. I mean, it was I that decided to give funding to NATUC and JTUM in our first budget because we recognized that we need to help trade unions. But I do not think this is the place for that. I do not think so because where are you going to stop?

Sen. Mark: Madam Chair, I never advocated for the business side of it.

Madam Chairman: I think the Minister has answered what you have raised with respect to the part B of your proposed amendment. Minister, you have proposed amendments to clause 6 as well?

Mr. Imbert: Oh yes, my thing is just typographical I believe.

Madam Chairman: Yes. You are substituting the word “of” to “by”.

Mr. Imbert: So it is: land belonging to the State and “in occupation of”, it should be “in occupation by”, so that is why we are doing that. And then we are taking out: “state enterprise controlled by the State, for public purposes;” and placing that with “state enterprises listed in Schedule IV”. So instead of a definition that could

be subject to interpretation, we are actually making it specific and listing the state enterprises that this thing would apply to. So that is the purpose of this amendment—our amendment 6.

Madam Chairman: So hon. Senators, I am going to put the amendments to clause 6 to the vote. I will deal first with the amendments circulated and proposed by the Minister of Finance. So the question is, that clause 6 be amended as circulated by the Minister of Finance.

Question, on amendment, put and agreed to.

Madam Chairman: And now, Sen. Mark, I will propose your amendment as further amended but I will have to do it in two parts from how I understand the discussions. So hon. Senators, the question is that clause 6 be amended as circulated by Sen. Mark and further amended to read as follows:

A. In subsection (1), insert a new paragraph (n):

(n) land belonging to the University of the Southern Caribbean and occupied by the University of the Southern Caribbean.

Mr. Imbert: Madam Chairman, just give me a minute because I think in our amendment Bill, we are taking out something that was there before. So if we just take it out of the amendment Bill, that might solve the problem.

Madam Chairman: Minister, your amendments have already been accepted.

Mr. Imbert: That is to 6, right.

Madam Chairman: Yes.

Mr. Imbert: What I am saying is that in the Bill, you would have made—the Bill in clause 6 would be taking out the University of the Southern Caribbean. It is deleting paragraph (n). So in our Bill, let us just take out 6(a)(viii). We want to delete from clause 6 of the Bill, 6(a)(viii), but I am being told that we should put in the words “and occupied by”. Instead of the words: “deleting paragraph (n)”, I

would put in paragraph (n), inserting after the words “to”, the words “and occupied by”. So, what it would read is:

lands belonging to and occupied by the University of the Southern Caribbean.

So instead of clause 6 where we have 6(a)(viii): “deleting paragraph (n)”, replace that with the words in paragraph (n), by inserting the words—after the word “to”, the words “and occupied by”. So, in other words, it is very similar to what we were doing before. So instead of the words “deleting paragraph (n)”, so we take out that so we delete the words “deleting in paragraph (n)” and the inserting the words in paragraph (n) by inserting after the word “to”, the words and “and occupied by”. Okay? So that brings back in the University of the Southern Caribbean and I will have to take three Panadol for that because I agreed with Wade Mark on something. [*Laughter and crosstalk*]

Madam Chairman: So hon. Senators, the question is that clause 6 be amended as circulated by the Minister of Finance and further amended as follows:

At 6(a)(viii) by deleting the words “deleting paragraph (n)” and substituting the words “in paragraph (n)”, by inserting after word “to”, “and occupied by”.

Question, on amendment, put and agreed to.

Madam Chairman: I now have to put the amendment as proposed by Sen Mark. Sen. Mark, do you wish to go through with the amendment?

Sen. Mark: Of course. This is a very serious amendment.

Madam Chairman: Can you withdraw the first part of your amendment because that has been dealt with?

Sen. Mark: I do.

Madam Chairman: And we will just deal with your B. So hon. Senators, the

question is that clause 6 be amended as circulated by Sen. Mark by deleting 6 A, so we are only dealing with 6 B.

Question put.

Sen. Mark: Division.

The Committee divided: Ayes 6 Noes 24

AYES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Zakour, E.

NOES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Sinanan, R.

Moses, D.

Hosein, K.

West, Ms. A.

Le Hunte, R.

Lester, Dr. H.

Singh, A.

Cummings, F.

De Freitas, N.

Dookie, D.

Huggins, R.

Mahabir, Dr. D.

Roach, HRI

Small, D.

Shrikissoon, T.

Ramkissoon, Ms. M.

Chote SC, Ms. S.

Raffoul, Ms. J.

Richards, P.

Prescott SC, E.

Amendment [Sen. W. Mark] negatived.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Madam Chairman: So I think this is a good time, hon. Senators, to take a break, refresh ourselves, clear our minds, and in the spirit of generosity, we will resume at 5.30 p.m.

4.48 p.m.: *Committee suspended.*

5.30 p.m.: *Committee resumed.*

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Madam Chairman: Minister, there is an amendment circulated on your behalf to clause 8.

In paragraph (b), insert after the words “the new”, the words “, in the first place where they occur,”

Mr. Imbert: Yes, Madam Chairman. This is a typographical correction where we are including the words “in the first place where they occur”. Let me see how that would read. Just a minute, Madam Chair. Okay, I am told that the word “new” appeared in three places so you are simply putting in “the new” in the first place where they occur, so it is just a typographical correction. So all you are doing is taking out the words “the new” and replacing it with the words “a new”. Taking off the words “the new” and replacing them with the words “a new”, so it would read like—

Sen. S. Hosein: The amendment that you circulated has “the”—

Mr. Imbert: I know; it confused me too.

Madam Chairman: Minister, perhaps you should just read how it will be read if the amendment is accepted.

Mr. Imbert: If you look at the quotation marks, the quotation marks end after the word “new”, so “in the first place where they occur” is not part of the amendment, this is just explanatory. So it would read as follows:

Where a new building under this section stands on premises already assessed...

—where in the past, it was “Where the new building under the section stands on premises already assessed”. So you are changing “the” to “a”.

Madam Chairman: Sen. Shrikissoon.

Sen. Shrikissoon: Thank you, Madam Chair. Through you to the hon. Minister, just on the same subsection (5) of section 19, it says here:

Where a new—with the amendment—building under this section stands on the premises already assessed and entered in the Assessment Roll in force, the taxes payable in respect of the land for the unexpired portion of the year in which it was erected shall be calculated upon the difference between the

taxes assessed before the erection of the new building...

And I am asking the Minister if he will consider the word “completion” rather than “erection” there of the building because the difference is before the erection of the new building and the taxes assessed after the erection of the new building because the process of construction may take a while. So I am just asking if completion so that the taxes would be prorated before completion and after the completion.

Mr. Imbert: But you see you may have a building which is effectively complete and you do not have the completion certificate yet. You may not have all the approvals and so on but it is still a substantial structure. So if I went along with your proposal, we could only charge for the land and not the building.

Sen. Shrikissoon: Madam Chair, you would deem completion upon receipt of a completion of certificate?

Mr. Imbert: We will have to define what “completion” is, so that the erection means that there is a structure there.

Sen. Shrikissoon: Okay. Because I was just of the view that it may have spanned a while.

Mr. Imbert: It would, it would. So it means as the value is added to a building structure, you adjust the tax to suit. Remember you are doing this valuation every five years eh, so this is just catching properties that are on the cusp of the five years. This straddles the five-year interval, so one would think that you should be able to finish a building in five years.

Sen. Shrikissoon: Okay, so it would not be that because the assessment notices are given out every year that it will change per year?

Mr. Imbert: No.

Sen. Shrikissoon: Okay. So once you have a value, it will hold for until?

Mr. Imbert: Yeah, for five years. Okay?

Sen. Shrikissoon: Okay, sure.

Sen. West: Except that if you add a building, then they can come in and value the enhanced value of that property during the five years and that is when you will prorate.

Mr. Imbert: Okay? All right.

Madam Chairman: So hon. Senators, the question is that clause 8 be amended as circulated by the Minister of Finance.

Question, on amendment, put and agreed to.

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Madam Chairman: There are two sets of amendments. Sen. Mark, we will move with your amendment first. Let us discuss it.

In proposed subsection (1A), by deleting the words “sixty days” and substituting the words “fifteen days”.

Sen. Mark: Yes, thank you, Madam Chair. I have made an amendment—or we, on this side I should say, have suggested the following amendment to clause 9(1A)(a) to delete the words “sixty days” in the event of an overpayment. You have made payments over and above what you were supposed to make to the Board of Inland Revenue and they are saying that they will refund you within sixty days. We are suggesting on this side that we reduce that to 15 days because clearly and so on, this is a serious imposition on a citizen, and to demonstrate what I mean by this, Madam Chair, if you go to the parent Act, in section 20(1) of the parent Act.

5.40 p.m.

If there is an overpayment, the parent Act suggested that refund be made forthwith. So, it means that you must take urgent steps to make that payment within a reasonably short period of time. But, I could not interpret “forthwith” to mean 60 days, in that regard, Madam Chair.

So, I am suggesting—unless this property tax administration is going to be a nightmare, in terms of its bureaucracy, and therefore, its inefficiency would be very glaring. And in those circumstances, I am suggesting to the hon. Minister that if I overpay, please pay me within 15 days and not 60 days. And I think, that is a reasonable time for the Government—who has my money—to return it to me within 15 days, and that is a reasonable period.

Mr. Imbert: Well, Sen. Mark, if you read the Bill itself, you see, where there is an overpayment the board refunds in 60 days, and where there is an underpayment the taxpayer pays within 30 days. So, how did you reach 15?

Sen. Mark: I am making an amendment to your—[*Interruption*]

Mr. Imbert: I know. The taxpayer has 30 days to pay the underpayment. “How you reach 15”? So, that means that the Government would refund somebody who overpays in 15 days, but somebody who underpays, refunds in 30 days?

Sen. Mark: Yeah, well that is a reasonable arrangement.

Mr. Imbert: Why?

Sen. Mark: Do you not find that is a very a reasonable arrangement?

Mr. Imbert: No, no.

Sen. Mark: That is a very reasonable arrangement.

Mr. Imbert: I do not find so.

Sen. Mark: Very reasonable.**Sen. Dr. Mahabir:** Hon. Minister, could we harmonize a 30 days then?

Mr. Imbert: Obviously. “I doh know what kind of thing Sen. Mark trying on me

here”. Make it 30/30. “Wha kind a ting is that you are trying dere”?

Sen. Mark: No. I think that efficiency demands that you give me back my money quickly.

Mr. Imbert: Well then, let the persons pay in 15 days too.

Sen. Mark: Well, let us harmonize 15/15.

Mr. Imbert: But, you have to be reasonable. So, I would either go 60/60 or 30/30; 15 days is a very short period of time.

Madam Chairman: Sen. Mark.

Sen. Mark: Well, if the Minister is willing to go for 30 days. I would like to go for 15 days. So, let him put forward this amendment.

Madam Chairman: Okay.

Sen. Ramkissoon: Thank you, Madam Chair. I have a query about section B. Can I raise that now, or do you want to deal just with Sen. Mark’s amendment? I have a query with clause 9(b)(ii).

Madam Chairman: Sure. You want to just raise it?

Sen. Ramkissoon: Sure. Thank you. I wanted to raise the point of the 6 per cent per annum that would be charged to the person who has to pay the property tax. Now the State, if they have to pay this after deferred, they would be paying at an interest rate of 15 per cent, and I find this is a little bit unfair. So, I would like to harmonize that. So, either you put the 15 per cent here or you put the 6 per cent in clause 21. So, you understand? Do I need to further explain?

Mr. Imbert: That is not normal, you know. There is a principle with respect to taxation—that the Government needs to get its revenue to provide goods and services to the population, and to service the country. So that, in all income tax legislation, you would see penalties of 15 per cent, sometimes more, as amnesties have been given, with respect to tax payments. Sometimes the penalties are

increased. It is not normal, because it is two different philosophies applying here. The 6 per cent is the best rate the person would get in the bank on their money. But, the 15 per cent is a penalty. So that, the 6 per cent is compensation for the Government holding your money for a period of time. And, you are getting a better rate than the bank rate. But, the 15 per cent is a penalty. So, it is not the same thing.

Sen. Ramkissoo: Okay. So, in section 20(2), we are looking at the refund, right, in relation—that is clause 9(b) (2). That deals with refund, and you are giving them 6 per cent back on their money that you have held.

Mr. Imbert: Yes.

Sen. Ramkissoo: Right? So, you are only giving them 6 per cent. But I am saying now, if I owe the Government for property tax, I am now going to be charged a 10 per cent— *[Interruption]*

Mr. Imbert: That is the point I made. Tax avoiders or people who do not pay tax—*[Interruption]*

Sen. Ramkissoo: Would have a 15 per cent.

Mr. Imbert: No, they are charged a penalty. So, the 15 per cent that the Government imposes on late tax payments, is a penalty. The 6 per cent is not a penalty. It is compensation for keeping somebody's money for a period of time. It is not the same thing.

Sen. Ramkissoo: I understand it is not the same thing because I understand the penalty—*[Interruption]*

Mr. Imbert: Therefore, the rate cannot be the same.**Sen. Ramkissoo:**—and the refund.

Mr. Imbert: But, that is not normal. Normally, penalties are far more than the interest that you would pay on a refund. The 15 per cent is a deterrent against

people avoiding tax. Throughout income tax legislation, or tax legislation, there are examples of penalties, which are much higher than what the bank rate would be. So, the rate that you have to pay the Government is as a deterrent. The rate the Government is paying you, is to compensate you for having taken too much money from you.

Sen. Ramkissoon: But Minister, you do know that there is a penalty of 10 per cent added already, and you are adding a further 15 per cent.

Mr. Imbert: Yes. That is also commonplace in legislation, tax legislation. The Treasury needs the tax revenue, otherwise you cannot run the country. So, you have to have penalties that escalate as time goes by. You must have that.

Sen. S. Hosein: But Minister, that would be a double penalty now, because you pay 10 per cent and then 15 per cent.

Mr. Imbert: That happens all the time.

Sen. S. Hosein: But, why do we not reduce the 15 per cent to the 6 per cent also?

Mr. Imbert: But, I just explained that.

Sen. S. Hosein: Yeah, but then you will have a double penalty—because the 10 per cent you are paying, plus the 15 per cent.

Mr. Imbert: That is standard in tax legislation. You want to encourage people to pay tax.

Sen. S. Hosein: I understand that, but do you know how much taxes you imposed already?

Madam Chairman: All right. So Senators, at this stage—*[Interruption]*

Mr. Imbert: This is how it has been for the last 50 years, including under the last UNC Government.

Madam Chairman: At this stage—Minister, please. Hon. Senators, the question is that clause 9 be amended as circulated.

Sen. Prescott SC: May I intervene before you—I am so sorry, I could not catch your attention a moment ago. In relation to the proposed amendment to clause 9, in subclause (1) (a), the suggestion is that payment should commence, the refund that is, within 60 days of the date of the new notice, and I wondered whether the Minister could confirm that it is the date of the notice that he means, or the date of service of the notice upon the taxpayer?

Mr. Imbert: That form of words appears in the next part of the clause.

Sen. Prescott SC: Say that again.

Mr. Imbert: That form of words appears in the next subclause as well.

Sen. Prescott SC: In (b)?

Mr. Imbert: Yes.

Sen. Prescott SC: Yes. So my question is, is it that you mean to make that distinction, that it is the date of the notice and not the date of service of the notice?

Mr. Imbert: Well if you go above—look at 9(a)(1).

Sen. Prescott SC: Yes.

Mr. Imbert: You see it is the issuance of the notice?

Sen. Prescott SC: The one that reads “where there is a change of variation”?

Mr. Imbert: No, look at 9(a).

Sen. Prescott SC: Yes.

Mr. Imbert: “Where there is a change or variation in information”. Yes, you are right, it is that one—“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”.

Sen. Prescott SC: Good.

Mr. Imbert: So this notice here, flows from that notice up there.

Sen. Prescott SC: Thank you. But my confusion, if you want to call it that, is in

(1A). It says:

“Where as a result of an amendment to the...roll there has been—

- (a) an overpayment of tax due, the Board shall, within sixty days of the date of the...notice, refund...”

—and I wondered whether you were clear on—it is the date of the notice, or the date when the notice reaches me.

Mr. Imbert: No. Look above. This is what I am trying to explain. This new notice here is the same as the one above. Look above.

Sen. Prescott SC: Okay, I am still not clear so—*[Interruption]*

Mr. Imbert: “The Board shall forthwith amend the assessment roll and issue a new notice...”

Sen. Prescott SC: And having issued—*[Interruption]*

Mr. Imbert: So, this new notice below here is the one that is being issued by the Board.

Sen. Prescott SC: Good, and my question is, when does the period of 60 days begin to run? Are you insisting that it is the date of the notice, or the date the notice reaches the taxpayer?

Mr. Imbert: No, the date the notice is issued.

Sen. Prescott SC: Very well.

Mr. Imbert: So, it will either be the postal rule or hand delivery.

Sen. Prescott SC: So I come to (1A)(b) now, and it says:“Where as a result of an amendment to the assessment roll there has been—

- (b) an underpayment of tax due, the additional tax shall become due and payable...”

Mr. Imbert: Right.

Sen. Prescott SC: I did not grasp the concept of “an additional tax”.

Mr. Imbert: Yes, if you have not paid.

Sen. Prescott SC: If you have not paid, you pay an additional tax? Or is it the unpaid or unremitted tax that shall become due?

Mr. Imbert: Well, it can be—*[Interruption]*

Sen. Prescott SC: It can be what?

Mr. Imbert:—that the property has been improved. So it is not an underpayment, per se. It is a new assessment. Look at the top there, 9(a):

“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...”

Sen. Prescott SC: Yes.

Mr. Imbert: Let us say, you have an annual taxable value and you are liable to pay \$1,000 for your property, but then, the board discovers that you have just changed your one-bedroom house into a 10-bedroom house. They will issue a new notice and there will be additional tax associated with that, additional to the tax that you were originally assessed for.

Sen. Prescott SC: That is very clear to me. Now, if the variation in the information does not necessarily mean that new additions have taken place, but simply, we have now found in the information provided to us, an error, and we have had to vary it, and the error has led us to the conclusion you have not paid all the tax you should have paid, am I required to pay an additional tax or merely to remit the unpaid tax?

Mr. Imbert: No, you will have to pay additional, because your requirement to pay tax, flows from a notice. So that, you have received a document from the tax authority—*[Interruption]*

Sen. Prescott SC: Yes.

Mr. Imbert:—telling you, the tax on your property is \$1,000. And then, the tax

authority does a further—they may send that out without doing any field investigation at all.

Sen. Prescott SC: I see.

Mr. Imbert: And then, they come along and realize: Well, you know, this is not the same property that was there 10 years ago.

Sen. Prescott SC: Yes.

Mr. Imbert: They will issue a new notice and now you have to pay additional tax, additional to what you would have been paying on the old notice.

Sen. Prescott SC: It is now very clear to me. Thank you.

Mr. Imbert: Well, I am glad.

Sen. Prescott SC: Thank you, Chair.

Mr. Imbert: I am very glad.

Madam Chairman: I shall now move to vote on the amendment as proposed by Sen. Mark.

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

Madam Chairman: We now move on to the amendments as circulated by the Minister, to clause 9.

In paragraph (b), delete subparagraph (i) and substitute the following new subparagraph:

“(i) delete the words “subsection (1)” and substitute the words “subsection (1A)” ”.

Mr. Imbert: Again, that would be typographical. Previously it was subsection (1) and now it is subsection (1A), because the subsection that this part of the Bill flows from is in fact subsection (1A). So, it is just correcting an error.

Madam Chairman: And Minister, are you further amending, in terms of the 60 to the 30 days?

Mr. Imbert: Yes, we make it 30/30. So, that would be 20(1A)(a):

“an overpayment of tax due, the Board shall within thirty days”

Madam Chairman: Hon. Senators, the question is that clause 9 be amended as circulated by the Minister and further amended at (1A) by deleting the word “sixty” and substituting the word “thirty”.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Madam Chairman: Minister, you have circulated an amendment?

Mr. Imbert: Yes, again, a typographical error and that would be amending section 21.

In paragraph (d), delete the word “a” and substitute the word “the”.

In section 21(5), it previously read:

“The Board shall serve notice on the objector of its decision”. And, we are changing that to:

The Board shall serve notice on the objector of the final and conclusive assessment. So it is just correcting the language.

Question, on amendment, put.

Sen. Prescott SC: Chair, may I? I hope I have not missed my queue.

Madam Chairman: I think you may have, Senator. I think you may have. Is it clause 10?

Sen. Prescott SC: It is clause 10.

Madam Chairman: Okay. Members, please, please, I ask, if anyone wishes to engage and to have my attention, please, put on your mike. I keep looking up all the time, before I put the sections to the vote.

Sen. Prescott SC: Do forgive me.

Madam Chairman: Sen. Prescott, you are forgiven.

Sen. Prescott SC: Thank you so much. It is for the Minister. In clause 10, at (e), which reads, if I may:

“In subsection (6), by deleting the words ‘in respect of an incorrect assessment of tax, consider the objection and may either confirm, reduce, or increase the value’ and substituting the words, ‘consider the objection and may either confirm, reduce or increase the tax’;”

The Commissioner has made a determination on someone’s assessment and he is now going to take steps to confirm or reduce the tax. I thought consideration should be given to notice of the decision taken—being served upon the taxpayer. Should I try that again?

Madam Chairman: Just one second.

Sen. Prescott SC: The Board is reconsidering an assessment. An objection has been taken, and the Board’s decision on that objection—no provision has been made for it be served upon the taxpayer. He simply gets notice that he has to pay more, or less tax. He may wish to challenge the Commissioner on his determination. Am I reaching the Minister?

Madam Chairman: Minister, page—[*Interruption*]

Mr. Imbert: Do you want to repeat that?

Madam Chairman: All right. Just one second, Senator. Minister, page 6 of the Bill. I think we are at (e). Is that—

Sen. Prescott SC: I am at (e).

Madam Chairman: Yes.

Sen. Prescott SC: Yes, (e) contemplates the Board having received an objection, and, making a determination on that objection and simply confirming, reducing or

increasing the value. And I am suggesting that it might be fair to the objector if you advised of the outcome, by serving a notice on him, of the determination. What it does, is it gives him an opportunity to seek further redress. I do not know that the Board should feel that it is beyond further appeal.

Mr. Imbert: So, the way you read this existing law—*[Interruption]*

Sen. Prescott SC: Yes.

Mr. Imbert:—is that the Board has the option not to inform the—*[Interruption]*

Sen. Prescott SC: It does not require the Board to inform him. And, so its observance might well be—it might be more observed in the non-delivery of notice. It is only fair to the taxpayer that he be—*[Interruption]*

Mr. Imbert: Are you saying that the person—the Board may have made a decision, but not told the taxpayer and the person does not know?

Sen. Prescott SC: Yes, except by way of saying, your tax has been reduced, or, your tax has been confirmed.

Mr. Imbert: But, when he gets that he can object.

Sen. Prescott SC: Well, in that case—and I did not want to have to do that, but the language of the Act could probably, therefore be extended to say that this too is subject to appeal.

Mr. Imbert: What is subject to appeal?

Sen. Prescott SC: That determination by the Board, or judicial review—the one you do not like.

Mr. Imbert: No, I did not say, I did not like it.

Sen. Prescott SC: Judicial review?

Mr. Imbert: I did not say, I did not like that.

Sen. Prescott SC: Forgive me, I thought you said you did not like judicial review.

Mr. Imbert: I just said, that when I am served with an application, either for

leave—[*Interruption*]

Sen. Prescott SC: I have withdrawn, so that we could get to the meat of it.

Mr. Imbert: I am putting it on the record, because I do not want these kind of things to be said. When I am served in my official capacity, with an application for leave to apply for judicial review or, leave has been granted and I am served with the judicial review application, I have to hire expensive lawyers. That is all I said.

Sen. Prescott SC: I recall that part.

Mr. Imbert: And, who likes that? It is the “lawyers” part, not the “judicial review” part.

Madam Chairman: Sen. Prescott, Minister, please. Could we please deal, Minister?

Sen. Prescott SC: Ma’am, may I just say that I have been making every effort to withdraw from that.

Mr. Imbert: Sen. Prescott, let me tell you what my difficulty is with what you are saying. When the Board makes the assessment, the taxpayer will be advised.

Mr. Imbert: Okay, but the Act does not enforce that upon him.

Mr. Imbert: No, but how then would you pay the tax? You only pay tax by way of a notice that you get.

Sen. West: Sen. Prescott, can I refer you to subsection (10)? Does that address your—[*Interruption*]

Sen. Prescott SC: Of the Act?

Sen. West: Of this same section.

Sen. Prescott SC: Of the Bill?

Sen. West: Of the substantive.

Sen. Prescott SC: Of the Act.

Sen. West: Yes.

Sen. Prescott SC: It says: “Where the board is in receipt”?

Sen. West: Yes.

Sen. Prescott SC: Yes. “It shall notify the objector of the decision”. Oh, thank you.

Sen. West: Okay.

Sen. Prescott SC: Thank you very much, lawyer.

Question put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed: That clause 12 stand part of the Bill.

Madam Chairman: Sen. Mark, there is an amendment circulated on your behalf?

Insert the following new subsection (4) after the proposed substituted subsection (3):

“(4) The Board shall exempt all pensioners from any payment of property tax in respect of the residential rate of three percent.”

Sen. Mark: Yes. Madam Chair, like the Minister of Finance, we have a fundamental policy position on this matter. We think it very difficult and very challenging for citizens who have reached the age of 60 or 65, to be subjected to this onerous property tax that the Minister and the Government are seeking to impose. And, it comes at a time when the Government has sought to amend the relevant section of the Act that would have given, you know, some relief in the way that the framers had contemplated, providing those reliefs at the material point in time. So, the Government has now proposed a deferral arrangement as outlined in their section 12 of the Act, and I do not have to repeat that for you.

What the Government is seeking to do, is to allow all retirees to submit an application. And as I said, we have no evidence of the application at this time—the prescribed form that is coming in the form of regulations. The Minister has not indicated to us when those regulations will arrive.

Madam Chairman: But Sen. Mark, could you speak specifically to your proposed amendment?

Sen. Mark: Yeah, my proposed amendment says that:

“The Board shall exempt all pensioners from any payment of property tax in respect of the residential rate of three percent.”

And therefore, I do not believe retirees should be subjected, after they have made their contributions to the Treasury.

And Madam Chair, you know, when you get your pension, it is taxable. So, when you get your pension and it is taxable, how would you be calling on me at the age of 65 years, to pay a 3 per cent on my asset at a reduced rate? And then, you are telling me, I must go “cap in hand” to bureaucrats at the Board of Inland Revenue who—[*Interruption*]

Madam Chairman: Sen. Mark, I think we understand the nature of the amendment that you have proposed.

Sen. Mark: So we are saying fundamentally, Madam Chair—[*Interruption*]

Madam Chairman: Yes.

Sen. Mark: We are not in favour of any pensioner being asked to pay a property tax at the rate of 3 per cent.

Sen. Dr. Mahabir: Madam Chair, and to the hon. Minister, this is similar to an amendment I had raised previously, and I fully understand the Minister’s argument that there are pensioners who really are pensioners of means. So, what I would like for the Minister to consider is whether, in order to minimize the bureaucracy

involved, he would consider that pensioners who are in receipt of a pension of less than \$5,000 a month, be exempt from the tax, and this will cover all recipients of the old age pension grant, who already have passed the means test.

Recipients of the NIB/NIS alone—there may be only one pension to receive from the NIS. And so, it will minimize the need for all of these people going to clog up the system at the BIR, with respect to passing the means test. They would already have passed it, you see. So from a policy perspective, I just want the Minister to consider whether he will exempt individuals earning, say, less than \$5,000 a month from pension, from paying this particular property tax. Thank you.

Mr. Imbert: I think the point is worthy of consideration but I would like to look at it in a little more detail, because, what are we really talking about, recipients of National Insurance pension? Recipients of Senior Citizens' Grant? So, I think it is a very good idea to remove any bureaucracy associated with this tax. But, I would like a little time to do that, and I think my record speaks for itself. Whenever I give an undertaking to this House, that I will return and make an appropriate amendment—that I have done so, and I give you that undertaking.

Let me look at it. I think it makes a lot of sense, because those people would quite naturally—if all they are getting is Senior Citizens' Grant, then they would certainly immediately qualify for relief. But, let me take a look at it and I will come back on that. I give this undertaking. Okay?

Sen. Shrikissoon: Thank you, Madam Chair. To the hon. Minister, with respect to this clause, section 3 of it, was initially repealed and replaced with a new amendment. But in the old section 3 that was repealed, a certificate was granted, and I thought that even with the new section, the relief that is being granted under section 23(3), if it was possible for the certificate to still be issued as a demonstration that the exemption, whatever form it may take, would have been

granted. So that, at least the taxpayer would have a record of the exemption.

Mr. Imbert: Again, I have no difficulty, in principle, with that. Let me just consult.

It supersedes 23(3), 26(3) or sorry you do not have the parent Act.

6.10 p.m.

Sen. Shrikissoon: I have it.

Mr. Imbert: You have the parent Act, look at section 26 of the parent Act. And we are going to be—in clause 13 of the Bill before you. Look at clause 13 in the Bill before you. So what it does

“the Board”—shall—“issue a notice in writing of any decision to” —grant—
“vary or revoke an authorisation issued under section 23...”

So when the person gets the decision they will get a notice because they have been granted an authorization. Okay? So, 23(3) is no longer relevant.

And I would also like to say something and I think also recipients of disability grants, as well, you know, that is why I need a little time to look at it. Let me look at all categories of impoverished persons, who should automatically be exempt from property tax. That is why I need a little time to come back. And also disabled people, not just people, no, you may have people—cannot qualify for disability grant. They are right on the border line in terms of income.

Madam Chairman: Sen. Mark.

Sen. Mark: Minister, would you want to indicate to this Committee, a time frame. Because we do not want this this to be open ended. Would you want to say well, within three months of the passage of this Bill, you shall return to this House. Having given consideration to Sen. Mahabir's point to deal with the bureaucracy to come back with an appropriate amendment, in order to address this matter?

Mr. Imbert: I am just looking at the timing. You know, we have this mandatory

recess now.

Sen. Dr. Mahabir: Hon. Minister, before the end of the Third Session seems reasonable to take the recess you come back in—because it is an important social matter. Before the end of the Third Session, I think it is very reasonable.

Mr. Imbert: Okay, before the end of the Third Session.

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

Sen. Mark: Of course.

Madam Chairman: Fine. Hon. Senators, the question is that clause 12 be amended as circulated by Sen. Mark.

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

Madam Chairman: The question therefore is that clause 12 now stand part of the Bill.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clauses 13 and 14 ordered to stand part of the Bill. Clause 15.

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

Madam Chairman: There are amendments circulated by Sen. Mahabir and Sen. Mark. Sen. Mahabir.

Delete the proposed subsection (2) and insert the following:

“(2) A person who has objected to his assessment under section 21, may appeal to the Valuation Tribunal in accordance with the provisions of the Valuation of Land Act Chapter 58:03.”

Sen. Dr. Mahabir: Thank you very much, Madam Chair. When I read clause 15, I really thought there was an error but the hon. Member of—the Minister in the Ministry of Finance indicated that this was deliberate policy. What concerns me again is efficiency and operationality in that it says that someone:

“who has objected to his assessment and”—who—“is dissatisfied with ...”—the Board.

So, the assessment is done by the Commissioner of Valuation. He or she will then make an appeal to the Tax Appeal Board. But you see, when we debated the Act to amend the Valuation of Land Act, and we debated at length the composition of the tribunal. We saw that the tribunal was really meant to eliminate the backlog of cases in the Tax Appeal Board. I suspect that there will be a lot of these objections and I am not sure if it is going to the Tax Appeal Board, after debating the tribunal the Valuation of Land Act, whether we would be defeating the purpose of efficiency.

Because, Madam Chair and hon. Ministers, when I looked at the calculations, the calculations are all based on assessment. And the tribunal, the Valuation Tribunal is supposed to deal with assessments and the only disputes I see coming out of that is whether someone miscalculated 1 per cent, 3 per cent, 5 per cent or 6per cent. And the calculations are simple and straightforward and they are based on a 100per cent on the valuations.

So, I do not see why it is that the Tax Appeal Board is going to have to be burdened with these disputes. When in fact it is a simple arithmetic issue of the valuation tribunal handling it as well and so we eliminate whatever backlog there is with respect to the Tax Appeal Board and we put all of these matters into the hands of the Valuation Tribunal.

Mr. Imbert: I have to look at it, because you are quite right. The only dispute that should arise is a calculation error. But the Valuation Tribunal, I have to look at what its powers are. It may not be empowered to look at taxes. So again, when I come back to deal with the pensioner issue, I will deal with that because I am not sure when we created the Valuation Tribunal we empowered it to look at taxes.

We empowered it to look at valuations.

Sen. Dr. Mahabir: Minister, I do not know if that was understood when we debated the Act to amend the Valuation—

Mr. Imbert: I understand what you are saying.

Sen. Dr. Mahabir: It was understood that that is what they would do.

Mr. Imbert: So what I am have to do is bring an omnibus Bill that amends the Valuation of Land that one clause, in the Valuation of Land Act and the clause with the pensioner, so that we can include this. Because I think we have to go and look at the powers and functions of the Valuation Tribunal. I do not think, and I am advised by the people to my left, my Treasury Solicitor and so on, that the Valuation Tribunal is not empowered to look at tax. So we may have to change their powers to allow them to look at tax, okay?

Sen. Dr. Mahabir: Based on the Minister's response—

Mr. Imbert: I will do that before the end of the session.

Sen. Dr. Mahabir: Yeah, I withdraw my amendment and I await the Minister's response. Thank you.

Amendment [Sen. Dr. D. Mahabir] withdrawn.

Madam Chairman: Sen. Mark, I made a mistake. You have no proposed amendment. Yes. So hon. Senators, the question is that clause 15 now stands part of the Bill.

Question put and agreed to.

Clause 15 ordered to stand part of the Bill. Clause 16.

Question proposed: That clause 16 stand part of the Bill.

Mr. Imbert: Madam Chairman, consistent with a recommendation made by Sen. Prescott, we are changing the word “collected” to “received” in clause 16 of the Bill which amends section 31 of the parent Act. So we took out that troublesome

word “collected” and replace it with “received”. Sen. Prescott, you good with that.

Sen. Prescott SC: Very.

Madam Chairman: Hon. Senators, the question is that clause 16 be amended as circulated by the Minister of Finance.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17 ordered to stand part of the Bill.

Clause 18.

Question proposed: That clause 18 stand part of the Bill.

Madam Chairman: Minister, you have circulated an amendment?

Delete paragraph (c) and substitute the following:

- (c) in subsection (3), by deleting the word “September” in each place it occurs, and substituting the word “March”.

Mr. Imbert: Just one second, Madam. Okay, I am advised that the tax is due in September of the previous year, and this is giving a person six months’ grace to pay the tax, whereas the original Act had given them one year’s grace. So, we thought six months is reasonable. The penalties do not start to kick in until after six months after the tax is due and payable, so we are changing it from September to March.

Madam Chairman: Sen. Raffoul.

Sen. Raffoul: Thank you. Thank you, Minister. This one, the wording on this, I find very similar to the parent Act. So the amendment to the amendment would be almost the exact same as the parent Act. So, I am wondering why we do not repeal this section and just revert to the parent Act itself, for this one.

It is a bit unclear, so I will just clarify. So the parent Act says, to be specific,

this is about the date after which penalties and interests accrue, if the taxpayer has not paid. So what the parent Act says is that if the payment is not made by September 16th, well I guess it will be from September 15th, then from September 16th onwards, the penalties and interest would accrue. Then the Draft Amendment Bill changes that from September 16th to the 15th of March. And then the amendment to the amendment replaces September with March. So the ultimate effect, to my interpretation is going back to what the parent Bill says which is March.

And also, I am not sure if that is supposed to be March of the current year, or March of the following year. My understanding is the notice of assessment is due from the Board of Inland Revenue to citizens by the 15th—the 31st of March in the calendar year. And then the payment is due in September, and then the penalties and interests accrue from the March in the following year. And the way this is worded it does not make any reference to March in the following year either. So, the two questions are, is it supposed to be March in the following year? And is that not exactly what the parent Act is already saying?

Mr. Imbert: I could give you a long and a short answer.

Sen. Raffoul: Whichever is better for you?

Mr. Imbert: The short would be, no. But let me just read for you the amended parent Act. Section 33 of the amended parent Act would read as follows:

“The annual tax due and payable in respect of every land shall be paid to the Board on”—30th of September—“in every year...”

And that is section 17, we just changed—

Sen. Raffoul: That section 33 of the parent Act.

Mr. Imbert: Yeah, I know, but you have to start with section 33 of the parent Act, because clause 17 of this Bill before us changed the date that the tax is due and

payable from March to September. So the tax is no longer now due in March, it is due in September. So, having done that, section 33 will read as follows:

The annual tax due and payable in respect of every land, shall be paid to the board on the 30th of September in every year.

Okay, so you start off having an obligation to pay the tax on the 30th of September. Now we go to 34, and the amended Act would read as follows that:

Where any amount of tax is not paid on or before the 15th of March, the further sum of 10 per cent kicks in.

So, it is due in September and then obviously it will be the next March. I do not think you need to add March of the following year. Because it is due in September. And then you say the penalty kicks in from March. So it has to be the following March. You are following what I am saying?

Sen. Raffoul: Sure, so you do not have to specify of the following year because it is understood.

Mr. Imbert: You do not need to say that. Because remember it is due in September so if a penalty kicks—the penalty cannot kick in the March before, because it is not due. The penalty does not apply until the due date has passed.

Sen. Raffoul: Okay.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Minister, respectfully. I too when I read it the first time I did not see—it was very unclear to me and also Sen. Raffoul. So see no harm in actually just including the words “of the following year after the 31st of March”.

Sen. Prescott SC: May I say that I too think that it would be—may I say, Chair, that I think it will be very helpful to the reader of the legislation. Notwithstanding that it might appear—

Mr. Imbert: Well, in the original Act it was like this:

“The annual tax due and payable in respect of every land shall be paid to the Board on or before”—31st of March—“in every year ending on the ensuing”—31st of December.

And then it went on to say:

“Where any amount of tax is not paid on or before the 15th September the Board shall cause a Notice of non-payment to be sent to the owner...”

So, there was no reference in the original Act explaining that it is due in September and then the penalty kicks in from March of the following year. It seems to me to flow. Okay we can put the words in if you want.

Sen. Prescott SC: I think you should.

Mr. Imbert: Okay, so what words you want to put in. Okay so we would add the words “in the following year” after the words “15th of March” in 34(3) and also in—sorry 34(1). Okay, I do not understand that but I am going along. Sen. Prescott, I am going along. The 15th September and then the penalty kicks in March, is going along.

Madam Chairman: Minister, Minister. I know you are going along. Sen. Prescott, I know that everybody is putting forth suggestions. But it is extremely difficult when we have to now incorporate non-circulated amendments. It gets a little difficult, and we are having some difficulty now adjusting. So we have the clause, the amendment proposed by the Minister and circulated to clause 18 that stands from what you are saying Minister, and now you are going to add a further amendment?

Mr. Imbert: No, I am going to amend what is here.

Madam Chairman: Okay, let us have it.

Mr. Imbert: So that the amendment to clause 18 will read as follows:

Delete paragraph (c) and substitute the following:

(c) in subsection (3), by deleting the word “September” in each place it occurs, and substituting the words, plural, “March in the following year”.

I was going to put it in the penalty area, but you all want to put everywhere, no problem.

Sen. S. Hosein: Just include it in the three places where March appears.

Mr. Imbert: Okay, Madam President, we will have to do it. I am not going to argue over that. Nothing turns, but it is okay. So that what 18 would be, yes. Sen. Roach, you are absolutely right; it is superfluous, but it is all right.

Madam Chairman: No, no. Let us hold on here. I just want us to be very clear as we go through. Minister, you are accepting the recommendations and therefore let us just have—I took one form of the amendment—

Mr. Imbert: No. They are now asking for whenever the word “March” appears, they want “in the following year”.

Madam Chairman: So can you just dictate.

Mr. Imbert: So I will come again.

Madam Chairman: Yes.

Mr. Imbert: So in—forget this amendment and the new amendment will read as follows:

Section 34 of the Act is amended—

Madam Chairman: You want me to write this?

Mr. Imbert: No hold on, I am just looking at what we are doing. Let us come back to this, Madam. Let them sort it out and we will come back.

Madam Chairman: Clause 18 is stood down for further consideration.

Clause 18 deferred.

Clause 19 ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Madam Chairman: Members, at some point in time, I have to stick with the programme. Okay? So I call it, I look up, I look down, I then call out. So, we have already taken the vote. Is it something you wanted to change? Or is it just a question?

Sen. S. Hosein: It is a typographical error.

Madam Chairman: Minister.

Sen. S. Hosein: You will see the word “and” appear twice.

Mr. Imbert: Which amendment?

Sen. S. Hosein: Section 36, clause 20.

Mr. Imbert: In the Bill?

Sen. S. Hosein: When you impose the amendment, the words “and three months have elapsed since the notice”. You should have just taken out “and” at the beginning of that; “and” before the words “three months”. Because “and” will appear twice.

Mr. Imbert: Just one second.

Sen. S. Hosein: Sure.

Mr. Imbert: Just take out the “and”?

Sen. S. Hosein: Take out “and” from the Bill.

Mr. Imbert: Okay, so I would propose an amendment to clause 20 of the Bill by deleting the word “and” before the word “three”.

Clause 20 recommitted.

Question again proposed: That clause 20 stand part of the Bill.

Madam Chairman: The question is that clause 20 be amended as follows, to read as follows:

Section 36 of the Act is amended by deleting the words “six months have elapsed since the same became due and owing” and substituting the

words “three months have elapsed since a notice of non-payment under section 34 has been sent”.

So, we are deleting the word “and”.

Mr. Imbert: Correct.

Question put and agreed to.

Clause 20, as amended, again ordered to stand part of the Bill.

Clause 21.

Question proposed: That clause 21 stand part of the Bill.

Madam Chairman: Minister you have circulated an amendment?

Insert after the word “Revenue” the word “Officer”.

Mr. Imbert: Yes, again just to deal with an error. The amendment to the Bill would have read as follows: In the parent Act the words that are to be deleted read as follows:

“Comptroller of Accounts, District Revenue Officer or other person to whom same ought to be paid”.

And in the Bill the word “Officer” was left out. So we are just putting it back in. That is it. Just a typographical correction.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23.

Question proposed: That clause 23 stand part of the Bill.

Madam Chairman: Sen. Mark, an amendment has been circulated. You have circulated an amendment, as well as the Minister. So, Minister will you just indicated what your amendment is about.

Delete the word “2016” and substitute the word “2017”.

Mr. Imbert: The amendment is intended to clarify and make certain the policy of the Government that the tax will only be collected in the year that all of the administrative arrangements are completed. We are still hoping to collect tax in 2018, and therefore we are extending the waiver of the application of the tax to the end of December 2017. Well, the appropriate month in 2017. So that the tax will now kick in in 2018.

We are still hopeful that we can complete the administrative arrangements in this year. If we cannot, then we will have to amend again to include 2018. But we think it is premature to take out, to waive the tax for 2018 at this point in time.

Madam Chairman: Sen. Mark.

- A. By deleting the words “31st December, 2015” and substituting the words “30th September 2016”.
- B. By deleting the words “30th September, 2016” and substituting the words “30th September 2018”.

Sen. Mark: Well, we want to fundamentally disagree, hon. Minister.

Mr. Imbert: Well, we know that you do not like the tax at all. You will probably want it in 2025.

Sen. Mark: We on this side want to be consistent with the original Bill that was laid in this Parliament, where the Government proposed the 30th of September, 2018. Eighteen that was the original Bill that was laid in the House of Representatives.

Mr. Imbert: But not in the Senate.

Sen. Mark: It was laid in the House of Representatives—

Mr. Imbert: Not in the Senate.

Sen. Mark:—and the hon. Minister amended it as you know, Madam Chair, to September 30, 2016.

Mr. Imbert: What about the other amendments?

Sen. Mark: Now, what the hon. Minister is now proposing is that we go to 2017. We are fundamentally opposed to that. And we are advancing that this matter, the administrative nightmare that he spoke about is there. And it makes no sense coming back to this House knowing fully well that you are not going to have the administrative structures in place for this tax and then to amend it further.

So, Madam Chair, we are proposing to save the Minister and the Government time and let them do their work properly. We are proposing that we stick to his original legislative amendment that is the 30th of September, 2018.

Mr. Imbert: Madam Chairman—

Madam Chairman: No, before I call on the Minister, is there anyone who wishes to say something in respect of either of the amendments proposed?

Sen. Raffoul: Thank you. If we do keep it to 2017, the moratorium, then for 2018 is it possible that we extend the dates for the Notice of Assessment. Because currently in the legislation it is the 15th of March or the—31st of March. So that date has already passed. Is it possible we can change that to September or October or some other point in time in this year? Because citizens would have to pay it at the latest by 15th of March, 2019? So, it is still possible have the collection by the 15th of March, 2019. But because the Notice of Assessment has not been able to go out by the legislative date, maybe we can change that today?

Madam Chairman: Any other questions or comments? Sen. Prescott.

Sen. Prescott SC: I wonder whether the Minister and Sen. Mark would consider that in the clause 23 of the Bill. We should instead say and substituting the words “30th September, 2017 or such later date as the Minister may by Notice declare.”

Mr. Imbert: That is a wonderful suggestion.

Sen. Prescott SC: I am grateful to you.

Mr. Imbert: I would go along with that.

6.40 p.m.

Sen. Mark: When you say “Notice” Sen. Prescott, would that be subject to that matter coming to the Parliament?

Sen. Prescott SC: I was trying to avoid that.

Mr. Imbert: There is no need for that. We are waiving the thing. There is no need for that. That makes it easier. I agree, Madam Chairman, with that proposed amendment.

Sen. Mark: We on this side would want to ensure that we lock down the Minister, and we are proposing the 30th of September, 2018.

Mr. Imbert: That is you.

Madam Chairman: All right. So, Sen. Hosein, you want to say something?

Sen. S. Hosein: Yes, Madam President, because I do not agree, respectfully, with Sen. Prescott’s proposal, simply because we must remember what happened in the House of Representatives when the date was changed from 2018 to 2016. So I think we need to maintain parliamentary scrutiny with regard to the date of the waiver for the property tax.

Mr. Imbert: Madam Chairman, can I talk now?

Madam Chairman: Not just yet. I am just looking to see if there are any other comments. Sen. Raffoul.

Sen. Raffoul: I think Sen. Prescott’s suggestion is excellent because it allows—we cannot predict in advance when the Board of Inland would be ready and when the valuers would be ready and when that 50 per cent threshold would be achieved. So if we could have the flexibility in the wording that Sen. Prescott suggested, I would support that.

Mr. Imbert: Madam Chairman, how many times have I heard Sen. Mark say,

what happened in the other place is irrelevant. You cannot have your cake and eat it too. We made many amendments to the Bill in the other place. Are you objecting to all of them or just this one? The policy that the original Bill in the other place had 2016 or 2018 as the case may be, how can it be that Sen. Mark, at the top of his voice, in the last 15 or 20 years he has been here, has said he does not care what is done in the other place, now begins to care? I totally agree with the most excellent suggestion of Sen. Prescott. Could we vote on this please? [*Desk thumping*]

Madam Chairman: Yes. Minister, so I will now put the amendment as proposed by Sen. Mark to the vote.

Mr. Imbert: And I am advised by the legal drafts people that it should be “by Order”, not “by Notice”. So, I would like to amend my amendment.

Madam Chairman: But let me deal with Sen. Mark’s amendment first.

Mr. Imbert: Oh yes, let us get that out of the way. [*Laughter*]

Madam Chairman: The question is that clause 23 be amended as circulated by Sen. Mark.

Question put.

Sen. Mark: A division please.

The Committee divided: Ayes 6 Noes 24

AYES

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Zakour, E.

NOES

Khan, F.
Gopee-Scoon, Mrs. P.
Baptiste-Primus, Mrs. J.
Rambharat, C.
Sinanan, R.
Moses, D.
Hosein, K.
West, Ms. A.
Le Hunte, R.
Henry, Dr. L.
Singh, A.
Cummings, F.
De Freitas, N.
Dookie, D.
Huggins, R.
Mahabir. Dr. D.
Roach, HRI
Small, D.
Shrikissoon, T.
Ramkissoon, Ms. M.
Chote SC, Ms. S.
Raffoul, Ms. J.
Richards, P.
Prescott SC, E.

Amendment [Sen. W. Mark] negatived.

Madam Chairman: We now deal with the amendment as circulated by the Minister of Finance. Minister, you have some further words to add?

Mr. Imbert: Yes. In section 52A—[*Crosstalk*]—so the amendment would read as follows:

Delete the word “2016” and substitute the words “2017 or such later date as the Minister may by Order prescribe.”

Madam Chairman: Hon. Senators, the question is that clause 23 be amended as circulated by the Minister and further amended to read as follows:

Delete the word “2016” and substitute the words “2017 or such later date as the Minister may by Order prescribe.”

Question put and agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24.

Question proposed: That clause 24 stand part of the Bill.

Madam Chairman: There are amendments circulated, Sen. Mark.

Sen. Mark: Yes, Madam Chair, we are into new territory, I believe, and the Minister would recognize that there are a number of important matters that would have to go into these regulations, and because we are into new territory, we are suggesting that this matter be subject to a full-scale debate, that is the regulations, and hence the reason we have proposed that the matter be subject to an affirmative resolution.

And, as you know, Madam Chair, sometimes these notices come out, based on what I have seen here, and they could escape our eyes and, in this instance, I know that the Minister in another incarnation was very firm on being in the affirmative mode—in another incarnation, in another time and in another place. So, I really would like him to be consistent with that kind of position and, therefore, I ask him

for this particular matter, maybe later on we could deal with some other thing, but on this one, because it is rather new, I would ask him to consider supporting the position of an affirmative, Madam Chair.

Mr. Imbert: Firstly, Madam Chairman, this has nothing to do with the regulations. The amendment proposed is to 53A, the amendment proposed by Sen. Mark; it has nothing to do with the regulations, so just let me make that clear, because we are dealing with 53A. The regulations are in 53(1). [*Crosstalk*] It is all right. You had your time to talk, let me talk now.

Let me also say in the imitable style of Sen. Moses, I cannot associate myself with anything you have said. I do not know what you are talking about in another place, in affirmative. I cannot associate myself with anything you have said. Thank you Sen. Moses for that very excellent phraseology. [*Laughter*] Now, let us get to the meat of the matter. What I am proposing here, Madam Chairman—[*Crosstalk*] is that—I like that phraseology. I cannot associate myself with anything you said.

Madam Chairman: Minister, Minister. [*Laughter*]

Mr. Imbert: Yes, Madam Chairman. Let us go now to our proposed amendment, and let me explain our proposed amendment to Sen. Mark. Perhaps he can see things our way. The important and fundamental Schedule that would impact upon people is Schedule I. Schedule I is the rate of tax, and I am proposing an amendment—before we deal with yours, that would make any Minister responsible for taxes required to come and debate a change in the rate. So if we are going to change 3 per cent to 1 per cent or 5 per cent or 4 per cent or 5 per cent to 10 per cent as the case may be, the Minister will have to come and amend that schedule by affirmative resolution. So that is very important. So that one is affirmative.

But I really cannot see, if we are going to be changing state enterprises—we

make state enterprises every week. We just made one last week. So that if every time we create a state enterprise, we would have to come to Parliament and debate by affirmative resolution, the inclusion of that state enterprise in Schedule VI, that makes no sense. So, therefore, I am proposing that the important Schedule, which is the rate of tax, any change to that be subject to affirmative resolution, but the other Schedules, such as the list of state enterprises, be done by negative resolution, and I hope that will allow you to see it our way.

Sen. Mark: Well, certainly, I am not seeing that.

Mr. Imbert: Okay. All right.

Sen. Mark: But, Madam Chair, I want to apologize, because I did in fact went ahead of myself, but I do not want to detain the Senate, but I just want to indicate that we remain firm on our position on the affirmative.

Mr. Imbert: No problem. We believe that the only thing that really needs debate is the rate. If someone has an objection to us including—we did a new state enterprise, what we call it? The upstream downstream energy company—we just created that a month ago, if we have to come to Parliament every time we create a state enterprise, do a full debate in both Houses to add that in the Schedule, that is a waste of parliamentary time, precious parliamentary time. So, I cannot agree with your proposal. I am of the view that if we want to change the rate of tax, that is something that should be subject to the scrutiny of both Houses, but not whether we adding in a state enterprise or taking it out as the case may be.

Sen. S. Hosein: Thank you very much, Madam Chair. Minister, just on a point of clarification, I notice only some state enterprises were listed in Schedule IV. Now, what is the criteria that the Government uses in order to determine whether or not a state enterprise is exempt from paying the property tax?

Mr. Imbert: What I am advised, and I am advised by Minister West, is that she

did explain this. The hon. Senator explained this, but these are state enterprises that are not for profit. For example, the National Commission for Self Help, is not intended to be profitable. These are not state enterprises like Petrotrin that generate revenue. So this is our National Gas Corporation. So that in the main, all of these state enterprises that are in the Schedule are not expected to generate a profit and we would not be imposing a tax on them, but the profitable ones, we would impose a tax on them. Okay?

Madam Chairman: So, hon. Senators, I will now put the amendments to the vote. The question is that clause 24 be amended as circulated by Sen. Mark.

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

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25.

Question proposed: That clause 25 stand part of the Bill.

Madam Chairman: Minister, you have an amendment?

Mr. Imbert: Madam Chairman, clause 25 reads as follows:

In the proposed Schedule IV, insert after the item “Central Bank of Trinidad and Tobago”, the following item:

“Chaguanas Borough Corporation”.

Yes, Madam Chairman, but we could always debate it by affirmative resolution if Sen. Mark wants us to. How about that? *[Laughter]* “Eh Sen. Mark?” *[Laughter]* What do you have to say? Do you want to say, debate the inclusion of Chaguanas Borough Corporation by affirmative resolution? I am happy to do that you know. I am happy you know. Let us say Chaguanas Borough Corporation subject to affirmative resolution.

Sen. Ramkissoon: Thank you, Madam Chair. I would like to ask the Minister, in

Schedule IV, there are different boards like engineering, architect, management of students, and all these boards have a fee just like the trade unions that we spoke about earlier. Why have you exempted them? Because they would fall in the same argument of why not excluding the trade unions, because they are paying a fee and their members can afford, so why now exempt them when they could afford?

Mr. Imbert: Well, I could speak in the particular case of the Board of Engineering that is created by an Act of Parliament. It is not for profit. Even though you collect fees—an entity can collect fees, they can generate income, but it is not for profit. So that is the objective, not for profit.

Sen. Chote SC: Well, hon. Minister, it just came to my mind, what about the Law Association?

Mr. Imbert: Pardon?

Sen. Chote SC: What about the Law Association?

Mr. Imbert: Do you want to put it in?

Sen. Chote SC: Yes.

Mr. Imbert: No problem, but let us do it by affirmative resolution. *[Laughter]* That was a joke. So, to my amendment, Madam Chairman, I would like to add Law Association—

Madam Chairman: Of Trinidad and Tobago.

Mr. Imbert: Yes, Law Association of Trinidad and Tobago, which would go after “Land Survey Board”—am I right?—alphabetically? It is not alphabetically, apparently we could put it anywhere. Well, let us put it, “Legal Aid and Advisory”. Okay, no problem.

Madam Chairman: By the Chaguanas, yes? *[Crosstalk]*

Mr. Imbert: Yes. Okay. *[Crosstalk]*

Sen. Ramkissoon: Madam Chair, before you put the question before us, I do just

want to ask the Minister, even though these are not for profit organizations, you do not want to narrow the tax base and that is why I am asking that the list do not be extended excessively, that you are putting the burden now on the population that has to pay property tax.

Mr. Imbert: That might be why we left out the Law Association. I am just joking, Sen. Chote. [*Laughter*]

Sen. Ramkissoon: But there are others like Firearms Appeal Board and Lands and Survey Board. There are a lot of boards and stuff that is here that we are not sure, if they are not for profits.

Mr. Imbert: I can assure you it would be done on a case by case basis, and we will look at it very carefully before we add anything.

Sen. Ramkissoon: Please, thank you.

Madam Chairman: Hon. Senators, the question is that clause 25 be amended as circulated by the Minister of Finance and further amended to include “Law Association of Trinidad and Tobago”.

Question put and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Mr. Imbert: Madam Chairman, I would like to revisit clause 3 before we go to new clauses. Clause 3.

Madam Chairman: Minister, just to tell you, there are two clauses that have been deferred, clause 3 and clause 18.

Mr. Imbert: Yes, I have 18 as well.

Madam Chairman: Okay.

Mr. Imbert: So, if we could go to clause 3, the amendment has been circulated.

Clause 3 reintroduced.

Mr. Imbert: Madam Chairman, clause 3 is amended as follows:

In paragraph (b) (i), after the words “Board upon an objection by the owner of land to”, insert the word “an”.

Madam Chairman: Minister, you wish to speak on the amendment. We have already heard from Sen. Mark on his proposed amendment. Can you discuss yours?

Mr. Imbert: This was just in agreement with Sen. Mark to delete “capital value”. So what we did is just redrafted our original amendment to delete “capital value”. So, we had an original amendment. If you go to the original page, we had this original amendment and we are now putting in this.

Madam Chairman: So, you are withdrawing that original amendment?

Mr. Imbert: Yes.

Madam Chairman: So we are dealing with the amendment circulated on this No. 2?

Mr. Imbert: Yes. So we are taking out the entire clause in the Bill and putting in this new clause here, and the only change is “capital value” and the word “an”. Previously the amendment just added the word “an”, now we take out everything and put it in a new clause which includes the word “an” and deletes “capital value”. Okay?

Sen. S. Hosein: Thank you very much, Madam Chair. Minister, with respect to the point with the industrial land, the residential land and the commercial land, you said that you would have looked at that on the backdrop of the Valuation of Land Act with respect to the Schedule I of the Property Tax Act.

Mr. Imbert: Just a minute. [*Crosstalk*] We will add the word “land” in the Schedule. Okay. When we get to the Schedule. Are we at the Schedule? Not yet? I thought we were by the Schedule.

Madam Chairman: We have passed the Schedule already.

Mr. Imbert: So we would have to go back to it. It is up to you. If you do not want to go back I am good, you know. [*Laughter*]

Madam Chairman: We will deal with that. Let us deal with clause 3, please. Sen. Mark, you have heard the Minister's contribution with respect to his proposed amendment. Are you proceeding with yours? Just one second. Sen. Mahabir, therefore.

Sen. Dr. Mahabir: So, you are referring to the new clause that I am proposing, Madam?

Madam Chairman: No, no, no. Clause 3 we are dealing with.

Sen. Dr. Mahabir: I have nothing.

Madam Chairman: Okay. We will deal with the new clauses after we have finished.

Sen. Ramkisson: Madam Chair, by the time they are discussing, from the Minister's amendment, part (b) is deleting the definition of "capital value", what was the reason for the deleting this?

Mr. Imbert: It should not have been there. That is the one where I said I have to "pat meh head with Limacol" because Sen. Mark was right.

Sen. Ramkisson: All right, I just wanted to make sure that is where we were. Thank you.

Sen. Mark: In light of the explanations offered by the hon. Minister, we shall be withdrawing 3.

Amendment [Sen. Mark] withdrawn.

Madam Chairman: So, Sen. Mark has indicated that his proposed amendment to clause 3 is withdrawn. So the question is that clause 3 be amended as circulated by the Minister.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 18 reintroduced.

Mr. Imbert: The amendment to meet the requirements of hon. Senators will be as follows:

In paragraph (a) insert after the word “March” the words “in the following year”.

In paragraph (c) insert after the word “March” the words “in the following year”.

And then we have to use the original amendment as well that is:

Delete “September” in each place it occurs and substitute the word “March” in subsection (3).

So, the original amendment stands in subsection (3) by deleting the word “September” in each place that it occurs and substituting the word “March” and then in paragraph (a), add the words “in the following year” and in paragraph (c) add the words “in the following year”. Okay?

Sen. Ramkissoo: Thank you, Madam Chair. I would like to know if the Minister would like to consider for subsection (2):

A notice under subsection (1) shall be sent by registered post two months prior to the 15th of September.

To give persons time, so they do not wait for the deadline.

Mr. Imbert: What clause were you on? Clause 18?

Sen. Ramkissoo: Yes, it would be 18(b)(2). In your amendment you have deleted (2) and (1), so I am just asking if you can consider just adding the words:

A notice under subsection (1) shall be sent by registered post two months prior to the 15th of September.

Mr. Imbert: But that does not form part of this clause we are looking at, you

know. That is something completely different.

Sen. Ramkissoon: No, we are looking at section 34 of the parent Act, Part II, and if you are looking at your amendment it is 18.

Mr. Imbert: Okay. But we were not looking at that at all, but we can look at it now. So, 34(2)—

Sen. Ramkissoon: The reason is to give the public time to pay your tax on time. So if you do not want to put the 15th of September, we can use the 16th of March.
[*Crosstalk*]

Mr. Imbert: So, we have to notify somebody they have not paid their tax? Two months before? You have to tell someone you have not paid your tax? This is not a notice of assessment, you know. This is just informing the person you had six months to pay this tax, you did not pay it and now interest will apply. Why should I tell you two months before?

Sen. Ramkissoon: You are waiting on the deadline date to tell them.

Mr. Imbert: You already have six months to pay. You are supposed to know, because you got the thing six months before.

Sen. Ramkissoon: You got the notice six months prior to this and—

Mr. Imbert: So you want two notices? You want it at six months, you want it at four months? That is what you are effectively saying here.

Sen. Ramkissoon: Yes.

Mr. Imbert: That does not, in my view—that is very bureaucratic, and if you put that in there, what happens if the thing comes one month before or something like that? I do not think that could work. That is adding a layer of bureaucracy because the person already had a notice that they got six months prior and they know they have six months to pay. So, respectfully—

Sen. Ramkissoon: Yeah, and ideally it should really be before the assessment. It

really should be there.

Mr. Imbert: You are talking about before. Okay. All right. Thank you.

Madam Chairman: Hon. Senators, the question is that clause 18 be amended as circulated by the Minister of Finance and further amended at subclause (a) by adding the words “in the following year” after the word “March” and in subclause (c)(1)(i) by adding the words “in the following year” after the word “March”.

Question put and agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

7.10 p.m.

Madam Chairman: Minister, you wanted to revert to an item that we have dealt with? After this we move on to the new clauses proposed.

Mr. Imbert: I think we have handled everything. [*Interruption*] The Schedule, I am sorry. The Schedule—just to add the word “land” after “commercial, industrial, residential, agricultural”. Just after the words, “commercial, residential, industrial, agricultural,” in Schedule I, just add the word “land” after the words.

Madam Chairman: Could you just tell us what clause please?

Mr. Imbert: It is not clause, it is the Schedule.

Madam Chairman: There is Schedule IV in the Bill which is introduced by way of clause 25.

Mr. Imbert: Right, so in clause 25 of the Bill, we want to—we will have to add a paragraph or something.

Madam Chairman: May I remind you that clause 25 was also already amended. This is the amendment that had been proposed on your behalf:

“Chaguanas Borough Corporation

Law Association of Trinidad and Tobago”

Mr. Imbert: Maybe we should revisit the amendment then.

Madam Chairman: Yes, but when we revisit the clause, we will revisit the amendment.

Mr. Imbert: So what I am proposing is that in the Schedule, in the proposed Schedule IV—sorry, in the proposed Schedule I. [*Interruption*] This is not a proposed Schedule I; we are amending Schedule I.

Madam Chairman: So therefore, that is going to be a new clause?

Mr. Imbert: Correct; that is quite correct. So I did not need to revisit anything.

Madam Chairman: No.

Mr. Imbert: It came from you, eh. [*Laughter*]

Madam Chairman: Minister, in the meantime can you just draft your new clause? We will deal with the other new clauses that have been circulated.

Mr. Imbert: Sure. They will draft it.

New clause 3.

A. Insert after clause 2 the following new clause:

“Allocation of **3.** The revenue derived from the revenue derived Property Tax shall be used exclusively to from Property Tax finance the operations of Local Government bodies in Trinidad.”

B. Renumber clauses accordingly.

New clause 3 read the first time.

Mr. Imbert: This is the Prescott amendment? [*Interruption*] Sen. Mahabir, this is you.

Question proposed: That new clause 3 be read a second time.

Mr. Imbert: Madam Chairman, now let me—

Madam Chairman: No, this is Sen. Mahabir. Sen. Mahabir has proposed a new clause 3. You have proposed a new clause 3A.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. There is a mischief that I will like to address, a potential mischief. And that is, it is common knowledge, the Minister of course knows better than most what the state of the deficit is for 2018, but we have been running deficits now for the last 10 continuous years, and my concern is that the revenue, if this Bill is passed, will then be used, and it will get lost somewhere in the Consolidated Fund, to pay whatever we have to pay. But the reason I propose the amendment that the property tax should be used exclusively to finance the operations of local government bodies in Trinidad is that the property tax is a peculiar one.

What we are doing is that we are taxing a stock—it is a wealth tax— independent of the ability of the property owner to pay; it is assumed. This is something that Sen. Ramkissoon had alluded to, that someone with property has a flow, but he or she may not have the flow. And the justification for this tax in all jurisdictions, with which I am familiar is that the property owners—and the Minister alluded to it too—that all property owners do derive benefits. They derive benefits from the locale in which their properties are located.

So to ensure that the property tax itself is not used to pay the country's foreign and local debt obligations, or gets lost somewhere within the central government, I am proposing that we dedicate the revenue from the property tax to the financing of local government bodies in Trinidad. I have excluded Tobago, because Tobago has its own arrangement of some 4.1 per cent or 6.9 per cent of Government's revenues.

So that since we have that particular formula for Tobago, I am proposing for consideration that the entire property tax collections be placed into a dedicated fund, similar to the Infrastructure Development Fund or a fund such as the Unemployment Relief fund, something like that, where it will then be at the

disposal of the Minister of Local Government to then redistribute to local government bodies, to ensure that the equity criterion, that is, the benefit criterion of the tax, people who pay the taxes in certain locales are guaranteed—independent of the fiscal deficit of central government—they are guaranteed to obtain a certain level of services financed by these particular taxes. In my mind, that will ensure that there is an equity base to this particular tax. Thank you very much.

Sen. Raffoul: I would like to support Sen. Mahabir's recommendation.

Sen. Obika: I would like to support the recommendation and also to add that failure to do so would really ensure that the property tax becomes a disincentive to add value to one's property. If the tax is in place, it actually provides incentives for communities to ensure that their peers, their neighbours pays the tax, and it also helps in terms of attaining 100 per cent encashment of the tax.

Sen. Richards: Thank you, Madam President. I agree with Sen. Mahabir and Sen. Obika in terms of this or a percentage of this tax being allocated to those local government bodies, especially in light of the fact that if it is a carte blanche approach nationally there are some regional corporations that are more densely populated than others. Minister West in her wrap up spoke about the fact, when we were speaking about the squatting situation, that Government is supplying services, and that is a rational justification for the tax. But in many cases the services are abhorrent because of the lack of funding for these regional corporations, and this will help take care of that, even if not all the tax, a significant percentage of it should be allocated in legislation to those regional corporations, to fund the services that the Minister spoke about.

Sen. Ameen: Thank you, Madam Chairman. While I lean towards supporting this particular amendment proposed by Sen. Mahabir, an issue would come up with the amount of taxes collected in different regions based on things like commercial and

industrial activities. You have an area like the Point Lisas estate and others that would have a lot of industrial activity, and the regional corporations do not have the responsibility to do maintenance works in those areas.

I want to make a suggestion. I do not know if Sen. Mahabir would consider it. Instead of all the taxes going to the local government body, the regional corporation, that maybe all the taxes from residential properties go towards the regional corporation, or something like that, because the purpose of the tax would then be to maintain the areas that the regional corporation is responsible for. It also includes the business centres, so even commercial should be considered, but we must have a way to determine, because as I said, the industrial estates at Arima, the eTeCK Parks, the Point Lisas, they are not maintained by the regional corporations. So perhaps the taxes collected from industrial buildings or industrial property could go to central government, while the taxes collected from residential and business, commercial, could go to the regional corporation for that fixed purpose.

I remember years ago there was something called the Road Improvement Fund, where they would take the RIF tax at the pump when you purchased gas. The purpose of that was to pave roads within the regional corporation, and every year the corporations would get an allocation out of that RIF. I am sure the Minister would remember that.

So that was—and in my early days as a councillor that came to an end—

Madam Chairman: Senator, I think the gist of your recommendation—

Sen. Ameen: Yes. So I want to ask the Minister, because there would be an implication when we consider the local government reform that we have been told is coming, I want to ask the Minister if we could make some provision here and now that we could further speak to when we deal with the municipal corporations

amendments.

Sen. Prescott SC: Madam Chairman, may I through you ask Sen. Mahabir, for my own edification and because Tobago does not appear to be represented on this Bench, why is he making that distinction between Trinidad and Tobago in the proposal? I know that we seem to be collecting property taxes in Tobago, and the amendment is to be limited to Trinidad only. Thank you.

Madam Chairman: Sen. Obika, anything further to add to what you said?

Sen. Obika: Yes, Madam Chair. Basically I just wanted to add, if—and to see if Sen. Mahabir could consider looking at a percentage of this money that goes to the local government bodies should be for infrastructural upgrades, so that they would not be just throwing more parties with the extra money they have, but they will be having fire hydrants and roads and stuff in the community. So a percentage, maybe 50 per cent, for infrastructural development.

Madam Chairman: And finally before I ask the Minister to respond, Sen. Mahabir.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. I did not know there was going to be such interest in this amendment.

With respect to Sen. Prescott's query, the THA Act already makes provisions for the financing of the Tobago House of Assembly, and that comes under its own special law. It is for this reason that I deliberately excluded Tobago from the amendment.

With respect to Sen. Ameen's concern, it is my position that this property tax is coming first when it should have come after local government reform. All of what Sen. Ameen has said makes a lot of sense, but the property tax literature, the property tax experience in all jurisdictions is replete with examples of transfers from one corporation to the next. The have provinces to the have-not provinces, the

movement and the shifting of funds. So that we do not have to place in law now these various riders to the uses of the tax.

What was of concern to me is that we are passing a law, or there is a law for consideration, in which there is no specific indication as to the uses of this highly peculiar and idiosyncratic tax. So the *raison d'être* of the amendment is to place in law that the particular tax, because it is peculiar, because it is a tax on a stock, will follow international norm, the norms of equity, and that we say it is for the financing of local government operations.

It is left, of course, for the Government to accept or not to accept the recommendation, but also if it is to be placed in the law there is nothing preventing us, when we come—if we come to local government laws reform and any local government Bill—we can always determine the mechanics of how, in fact, this particular tax is going to be implemented at the local level.

Mr. Imbert: Previously, I said I would have to sap my head with Limacol, because I had agreed with Sen. Mark. I think I will have to go to the doctor now, [*Laughter*] because Sen. Ameen, that was a most excellent contribution. I think I will have to go and, probably a specialist, [*Laughter*] a heart specialist. [*Laughter and crosstalk*]

Now, the crux of the matter was ventilated by Sen. Ameen. The reason why we cannot along with this, Sen. Mahabir—but I am not shutting the door—is precisely the point that Sen. Ameen made. You have a corporation like Couva/Tabaquite/Talparo in which the Point Lisas Industrial Estate will be based. That will be a super rich corporation because of the amount of money it will be collecting from the methanol plants and so on. But that is not even the best example, because that is a big land mass that stretches from, I think, La Horquetta, Talparo and goes all the way down. But Point Fortin is a tiny little corporation. If

you look at the boundaries of Point Fortin, it is tiny. It is very small geographically, and not much people either, but it has Atlantic LNG in it, and Atlantic LNG is probably going to be the entity that will pay the most property tax in the entire country.

So if you went along with this, we would find corporations where there is no industry, or no significant commercial activity, would be disadvantaged because all they would be able to collect would be agricultural, which is only 1 per cent, or some residential. Then you have superrich corporations, like the Point Fortin one is the best example. Tiny little corporation that would probably collect more than Port of Spain when you did this. So it is not practical.

So what we have decided to do at the level of the Cabinet was to start with residential, but we did not want to put it here into this law. We are going to put it into the local government law, and I am giving you that undertaking now, that we have made a policy decision that we will start with residential. Tax on residential properties will be for the account of local government bodies. And let me make another point.

All taxes collected in Tobago are kept by the Tobago House of Assembly. So whether it is value added tax or corporation tax or whatever it is, they are kept and they are deducted from the subvention. Now, that is the point I wish to get to, because currently this country spends billions of dollars on local government. I do not know the number now. I know it used to be two; I feel it is three now, that it is about \$3 billion. Sen. Hosein, about \$3 billion right? So currently, the central government, from collection of taxes, corporation tax, individual income tax, royalties on oil and whatever, value added tax, sends \$3 billion to the local government corporations. It is highly unlikely, virtually impossible, that property tax would ever yield anything close to \$3billion. It might yield \$300 million or

\$400 million at the best of times.

So property tax could never finance local government; it cannot. Local government bodies will always require a subvention from central government. Property tax just cannot, by any stretch of the imagination, ever finance local government. So all this does is it gives local government bodies cash flow, as happens in Tobago. When the Tobago House of Assembly collects value added tax and quarterly returns of corporation tax and so on, they get cash which they can use for their operations. And then when the subvention is sent to them, at the end of the year we have to do a very complex reconciliation with the Tobago House of Assembly, and audit exactly how much tax they have collected and that is deducted from their annual subvention.

So that there is tremendous merit in what you are proposing, Sen. Mahabir, but we have to work out the logistics of the thing, and we are going to start with taxes on residential properties, because we know there is no corporation where the tax on residential properties might be more than a subvention. But I could tell you, Point Fortin property tax might be more than it requires to maintain the infrastructure.

And then the further point that Sen. Ameen made, that local government corporations are not responsible for industrial estates for example, that is the responsibility of eTecK at this point in time. So you would have one body responsible for the maintenance of infrastructure in an industrial estate having that obligation, but another body collecting the tax for the industrial estate. And that is why I said I will have to go to the doctor, because I will have to agree with Sen. Ameen.

Sen. Dr. Mahabir: Just to respond briefly, Madam Chair. The position, hon. Minister, with respect to corporations which are well off and corporations which

are not, is old, old, old established. There is the transfer mechanisms that is established. People in local government would tell you about the Wallace Oates hypothesis, so that is not a problem, in that—

Mr. Imbert: It is. That is another country; there would be war. War will be declared between one corporation and another if one corporation had to take its money and transfer it to another. I am telling you, civil war will break out.

Sen. Dr. Mahabir: Okay, but let us not go along the line of war—

Mr. Imbert: That could work in America.

Sen. Dr. Mahabir:—because there are jurisdictions in which there are interconnected services and so on—

Mr. Imbert: Not here.

Sen. Dr. Mahabir:—and therefore there is going to be a need for minimum services and transfers. So that much is worked out. But what is of issue to me is that the amount of revenue that can be collected is in my mind significant when we assess all 700,000—I do not know how many properties we have in Trinidad and Tobago. With proper valuations and with up-to-date assessments, I think that we are going to collect a significant amount of revenue, and it may very well be that the financing requirements of local government maybe more than met by the property tax, and therefore if in fact—you see, we cannot say at this time, because we do not know what the valuations are, we do not know what the 3 per cent would yield, the 4 per cent, the 5 per cent on industrial. There is an estimate but without a proper valuation we cannot know.

It is in this context—I know you are saying you are studying it; I do not know when we are going to see local government legislation in the Senate—but we do need to look at how the revenue derived, including from industrial sites, can be used for the benefit of the residents, including corporate residents in the country,

independent of the state of central government financing. That is the concern that I have; that deficits have been with us for the past 10 years, they are going to be with us for a while longer, and in order to ensure that people on the ground are well serviced, I pose my amendment.

Mr. Imbert: But I am just making the point, you have made my argument for me, because you have said you never know that property tax might exceed the requirements of local government. And when that happens, what do you do then? Do you tell them send it back to central government?

Sen. Dr. Mahabir: It is well worked out when you have an excess, you can in fact review the rates, review property rates or you could increase the services.

Mr. Imbert: Sen. Mahabir, who is doing that review? The central government is going to review? When the local governments become so profitable that their collections exceed their requirements, the Minister now will intervene from top down and review the rates?

Sen. Dr. Mahabir: Well, local Government will decide what their projects are going to be. It is all about local government and giving the powers at the level of the ground.

Mr. Imbert: Precisely why this issue should be dealt with in the local government legislation.

Sen. Dr. Mahabir: And precisely why, Minister, that legislation should have come before, so that at least I would know what you are doing.

Mr. Imbert: I know.

Madam Chairman: So Members—

Mr. Imbert: I am going to give an undertaking, because Members seem to have forgotten that I gave an undertaking to come back here before the end of the session. So I will give an undertaking. As complex as it appears to me, I think we

could say residential tax and we have no problem, because we know that could never exceed the requirements of a corporation, but all the taxes, I just cannot see it. But I can give an undertaking when I come back to deal with the pensioners and so on, I will handle that at the same time.

Madam Chairman: Sen. Mahabir, in light of that, are you still pursuing new clause 3?

Sen. Dr. Mahabir: I will withdraw and I await the Minister's return to the Chamber.

Madam Chairman: So new clause 3 is withdrawn by Sen. Mahabir.

New clause 3 withdrawn.

Sen. Ameen: Madam Chairman, before you move on, I want to ask the Minister, if in considering the recommendation for the residential property tax to go to the regional corporations, if you could also look at the commercial as well because many commercial buildings are within town centres maintained by the regional corporations.

Mr. Imbert: I accept that. We had a look at it. We have been studying this quite comprehensively, and we felt that if we went to the commercial as well you might get to the situation where some corporations might be better off than others. I will; I give an undertaking I look at commercial as well, but we have already looked at it. We know that residential, it will be okay. I am not sure about commercial.

Sen. Ameen: Another suggestion could be for the—

Madam Chairman: No. Sen. Ameen, we need to move on to the other clauses.

Sen. Ameen: I just wanted to capitalize on the good mood of the Minister—

Madam Chairman: I understand.

Sen. Ameen:—and make one tiny recommendation. Another suggestion is that the commercial tax from all corporations could be collected, pooled and evenly

distributed.

Mr. Imbert: Now you are looking for trouble, but anyway, no problem.

New clause 3A.

Building or accommodation to be deemed land.

New clause 3A read the first time.

Question proposed: That new clause 3A be read a second time.

[*Interruption*]

Clerk: “Building or accommodation to be deemed land.”

Mr. Imbert: You have a different thing to me.

Madam Chairman: It is in the list number two.

Mr. Imbert: Oh yes, this is the Prescott amendment, where we just have a big 3A.

Sen. Prescott SC: With the Chair’s permission, I do wish to make an enquiry.

Mr. Imbert: Sure.

Sen. Prescott SC: In 3A (c) the use of the term “multi-owner”, is the focus really on ownership, or what if we were to say “a single commercial accommodation is part of a commercial complex”? Is the focus on ownership?

Mr. Imbert: Yes.

Sen. Prescott SC: So that it must be owned by more than one person?

Mr. Imbert: Yes; in this particular case yes, because if it is owned by one person, it is covered in another part of the Act.

Sen. Prescott SC: I am accepting that that might be so. Thank you.

Sen. S. Hosein: Minister, if you are creating this new clause 3A, would you now have to now delete what would have been amending section 3 in the Bill?

Mr. Imbert: We are not going with that amendment.

Sen. S. Hosein: So we would not have to expressly delete it in the Bill?

Mr. Imbert: Let me just get clarity on that. [*Interruption*] They said it is gone

already, so it is not necessary to—it was dealt with before when we amended clause 3. This is a new clause 3A.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 3A ordered to stand part of the Bill.

New clause 22A.

Insert after clause 22, the following new clause:	
“Section 40 amended	22A. Section 40 of the Act is amended – (a) by deleting the words “and tax payable by him” and substituting the words “any tax payable by him”; (b) by deleting the word “landlord” and substituting the word “person”; and (c) by deleting the words “, or to anyone authorised to levy a distress under section 37”.”

New clause 22A read the first time.

Question proposed: That the new clause 22A be read a second time.

Mr. Imbert: This is just fixing up the language, where in section 40 of the Bill the words were, “no goods or chattel whatever belonging to an owner at the time and tax payable by him is in arrears...” So we are just changing that to “any tax payable by him”. That is the first one. So we are changing, “and tax payable by him”. *[Interruption]*

“No goods or chattel whatever belonging to any owner, at the time any tax payable by him is in arrears shall be liable to be taken by virtue of any warrant of distress issued by any landlord...”

And we changed that to “person”—“landlord” to “person” because there may be

somebody seeking to levy who is not the landlord. We are taking out the words:

“anyone authorised to levy a distress under section 37...”

So that only the Board of Inland Revenue now can distrain against somebody for taxes, nobody else.

Madam Chairman: Minister, we just have to resume the Senate to deal with a Procedural Motion.

7.40 p.m.

Senate resumed.

Madam President: Leader of Government Business.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

PROPERTY TAX (AMDT.) BILL, 2018

Committee resumed.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 22A added to the Bill.

Mr. Imbert: And, Madam Speaker, notwithstanding the fact that—sorry, Madam Chairman, that Sen. Mark did not see this, I am actually correcting something that Sen. Mark did not see.

Madam Chairman: Well, Minister, we have not gotten there as yet. We just dealt with new clause 22A—

Mr. Imbert: I know, I am going to 23.

Madam Chairman: It has to be called—

Mr. Imbert: Right.

New clause 23A.

New clause 23A read the first time.

Question proposed: That new clause 23A be read a second time.

Madam Chairman: Minister.

Mr. Imbert: So, yes, Madam Chairman, Sen. Mark had missed out the fact that regulations can be made without any action on the part of the Parliament, so I am now putting in that regulations have to be subject to negative resolution of Parliament. Because right now I could make them without parliamentary oversight.

Question put and agreed to.

Question proposed: That new clause 23A be added to the Bill.

New clause 23A added to the Bill.

Mr. Imbert: I am on clause 24.

Sen. Dr. Mahabir: Chair, may I have some clarification on 23A. There is a committee called the Statutory Instruments Committee of the Senate. Is it that this committee is duty bound to be looking at these regulations in addition to the overall Parliament scrutiny?

Mr. Imbert: I really “doh” know, but I mean, what I am doing now is making sure that the regulations have to be laid in Parliament and subject to negative resolution. I cannot speak to that committee, I “doh” know.

Sen. Dr. Mahabir: I just wanted to clarify whether, in fact, it would preclude the powers of that committee.

Mr. Imbert: No. No. No. No. Of course not.

Madam Chairman: Minister, there is another new clause.

Mr. Imbert: Yes. And this is the one to deal with the issue raised by Sen. Hosein.

Madam Chairman: Do you have it in writing?

Mr. Imbert: I can read it.

Madam Chairman: Okay. Could you just call it out then?

New clause 24A.

Mr. Imbert: New clause 24A inserted. The marginal note or the chapeau. Is it called the chapeau?—marginal note. Schedule I amended, 24A, and I will give you the samples.

Madam Chairman: Just one second.

Mr. Imbert: I will give this to you afterwards, Madam Chainman.

Madam Chairman: And know that I am going to understand your writing.

Mr. Imbert: It is not in my writing. [*Laughter*]

Madam Chairman: And you know—could you just read it, please, that then—yeah. Schedule I amended.

Mr. Imbert: Schedule I amended:

“The Act—

And yes, you could understand this.

The Act is amended in Schedule I by inserting:

- A After the word “residential” the word “land”;
- B After the word “commercial” the word “land”;
- C After the word “industrial” the word “land”; and
- D After the word “agricultural” the word “land”.

I tell “yuh” you could read it.

New clause 24A read the first time.

Question proposed: That the new clause 24A be read a second time.

Mr. Imbert: That is it.

Question put and agreed to.

Question proposed: That new clause 24A be added to the Bill.

Question put and agreed to.

New clause 24A added to the Bill.

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

Senate resumed.

Bill reported, with amendment.

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

The Senate divided: Ayes 23 Noes 7

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

West, Hon. A.

Le Hunte, Hon. R.

Henry, Dr. L.

Singh, A.

Cummings, F.

De Freitas, N.

Dookie, D.

Huggins, R.

Mahabir, Dr. D.

Roach, HRI

Small, D.

Shrikissoon, T.

Chote SC, Ms. S.

Raffoul, Ms. J.

Richards, P.

Prescott SC, E.

NOES

Mark, W.

Haynes. Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Zakour, E

Ramkissoon, Ms. M.

Question agreed to.

Bill accordingly read the third time and passed.

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 15 May, 2018, at 10.00 a.m. in the morning. During that very long session, we will be debating the Finance (Supplementation and Variation of Appropriation) Bill, more commonly known as the mid-year review, and we plan to have a fairly long session. Thank you very much, Madam President.

Madam President: Hon. Senators, before I put the question on the Adjournment,

leave has been granted for two matters to be raised on the Motion for the Adjournment of the Senate. Sen. Mark.

**National Insurance Appeals Tribunal
(Current Status of)**

Sen. Wade Mark: [*Desk thumping*] Thank you very much. Madam President, the first matter I want to bring to the attention of this honourable Senate deals with the National Insurance Appeals Tribunal. It has been brought to my attention, and I may be incorrect, the Minister will have to correct me if I am wrong, that since April of 2017, no tribunal has been in place. My information is that a chairman has been appointed, but the other members are yet to be given their instruments for the operationalization of this tribunal.

Madam President, this tribunal is supposed to be a tripartite tribunal: labour, business and Government, and it is a quasi-judicial body. It is my understanding that as at the end of November of last year, the number of outstanding matters before this tribunal stood at around 1,170 and that number has been increasing, Madam President.

Some of these cases are over 10 years. Madam President, in the process, several citizens have died awaiting for their matters to be heard at the level of the tribunal, because the tribunal deals with not only medical, but non-medical matters.

The National Insurance Appeals Board is governed by an Act which is the Act, which is the National Insurance Act, rather, Chap. 32:01. This particular tribunal deals with the receiving, processing, hearing and determining of appeals from persons who are dissatisfied with any decision of the National Insurance Board in respect of claims for benefits and/or other matters under that body's jurisdiction.

Madam President, this body or tribunal is an independent quasi-judicial body, and it is not under the direct control of the National Insurance Board or any

other state agency or Government department. The tribunal is comprised of a chairman and three members representing Government, business and labour appointed by, well, Her Excellency the President.

Madam President, the Act requires the Chief Medical Officer to advise the tribunal on medical matters generally, and this tribunal is administered by a registrar and other support personnel.

This tribunal appeared before what is called a Joint Select Committee back in 2013, and several recommendations were made during that period. And the Minister, I do not know if he has seen this Joint Select Committee report, but there are several recommendations that were made. But the key issue here, Madam President, is why has it taken so long to get this tribunal properly appointed and in place.

And, Madam President, as I indicated earlier, there are thousands of outstanding matters that are supposed to be heard by this particular tribunal, and citizens who have to appear before that tribunal to get justice, they cannot do it because my information is that from November of last year, that tribunal has been non-functional. And whilst the Minister of Finance is the individual responsible for, at least, an oversight role and responsibility, and I also believe and the Minister will have to advise, he is the person who appoints these individuals or makes sure the committee or tribunal rather, is properly in place.

The chairman is appointed by the Minister of Finance, I understand and, of course, labour, business and Government would have their representatives on that tribunal. But to date, I am very saddened that a very important institution and body like this one does not have its full complement of personnel, and citizens are at a disadvantage as a result of this particular development.

So, I am calling on the hon. Minister of Finance to bring this Parliament up to speed with what is the current status of this tribunal. When is this tribunal going to begin functioning once again? Or has it begun to function and I am not aware. And that is why I have brought this matter to the attention of honourable Senate so that we can get some answers from the relevant authorities as to what is taking place with this very important body called the National Insurance Appeals Tribunal, Madam President.

So, I am looking forward to getting some clarification from the Government as to the status of this tribunal because it is very important for citizens who have grievances with the National Insurance Board and they have to go to this tribunal for some degree of justice and fairness. I thank you very much, Madam President.

Madam President: Minister of Finance.

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. [*Desk thumping*] In that long discourse I did not hear the fact that the president of the tribunal is appointed by His Excellency or Her Excellency the President. And if hon. Sen. Mark had done his research, he would have discovered that the previous chairman was made a judge, and as a result could no longer function as chairman of the National Insurance Appeals Tribunal. And we all had to wait on His Excellency, as opposed to Her Excellency, to appoint a new chairman, and that was done just about a month ago and the other appointments, the instruments of appointments are currently being finalized, and will be sent to Her Excellency to be signed shortly.

Madam President: Sen. Mark.

Hon. C. Imbert: “Yuh” good now?

**Fire Officers
(Enhanced Pensions Payments)**

Sen. Wade Mark: Madam President, I would like to raise another very important matter, it deals with the fact that in 2017, we debated a very important Bill called the Fire Service (Amdt.) Bill, 2017. And this Bill, as you would recall, Madam President, provided for fire officers who had acted in a higher office for a continuous period of at least three years immediately prior to the date of his or her compulsory retirement or on which he proceeds on an annual leave before the date of his compulsory retirement shall be eligible to have his pension, gratuity or other allowance calculated as if he was substantially appointed to that higher office.

Once the fire officer satisfies these requirements, the fire service would be required to make payments, and once the necessary contributions, rather, were made payable, that and the arrears calculated in terms of outstanding contributions, then the person would receive a higher pension because of the position that the person would have acted in during the period prior to his compulsory retirement.

Now, Madam President, I have been advised that since the passage of this piece of legislation in 2017, and it was effected, Madam President—it took effect from 1st of January of 2008 and it was applicable to officers of the First Division and officers of the Second Division of Fire Service.

What has happened is this. Since this Bill was passed, there has no implementation of this particular measure, so that the officers in question have not received their enhanced pensions. So officers are still awaiting directives from the Ministry of Finance, as well as the Ministry of National Security in order to receive their pensions on an enhanced level.

Now, Madam President, you know every year hundreds of officers or scores of officers would retire from the fire service. When they retire and they do not have access to this enhanced pension arrangement, and some of them may even

expire, it is an injustice that is being done to these fire officers and fire fighters and their families. Pension is an entitlement that people earn because they defer that income from several years, and when they retire they need to their get pensions. So whilst they are getting their pensions, we are saying that a Bill was debated in this Parliament in order to enhance their pensions. And as I said, Madam President, if these officers were acting in a higher post and they reached compulsory retirement age, they would have been paid their retirement in the last post that they acted in. And therefore, why has it taken so long for the Government to effect this measure so that the fire fighters can enjoy their enhanced pensions.

And that is why [*Desk thumping*] I have brought this matter to the attention of the honourable Senate so that the Minister of National Security can provide the fire fighters and this Senate with some explanation as to what has happened, and when these fire fighters who have left the service would, in fact, be in receipt of their enhanced pensions.

So, I look forward to a proper explanation for this inexplicable delay in providing these officers with their enhanced pensions. I thank you very much, Madam President.

Madam President: Minister of National Security.

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): [*Desk thumping*] Thank you very much, Madam President. Madam President, I have never heard so much hypocrisy by Sen. Mark who is showing care for the fire service officers, care and attention for the fire service officers.

Madam President, since 2012—

Sen. Mark: You call that hypocrisy?

Hon. Maj. Gen. E. Dillon:—since 2012 [*Crosstalk*] the members of the Trinidad

and Tobago Fire Service have articulated for this Bill for some Government to do something for them, Madam President. Since 2012, 2012 nothing happened; 2013, nothing happened; '14, nothing happen; '15, nothing happened [*Desk thumping*] '16—it was this Government, this Cabinet who approved the measures as brought by the Minister of National Security; [*Desk thumping*] it is this Government that brought it to the House [*Desk thumping*] and passed it, and passed this measure on the 21st of April. It is this Government that brought it to this House, to the Senate and passed it on the 25th of May, 2017.

This Government that this, not the last Government which took more than three years, members of the fire service were calling. Your Government, about five Ministers in national security, they cannot even remember which Minister they spoke with. [*Laughter*] This Minister ensured that it was brought to the House and passed, and so measures are being taken right now to deal with the issues. This Government did it, this Minister did it. Not you! [*Desk thumping*] Hypocrisy! As though you care for them! You had no care at that time! [*Desk thumping*] You did not care!

Madam President: All right.

Hon. Maj. Gen. E. Dillon: You did not care at that time for the fire officers, did you?

Madam President: Minister, please. I understand that it is getting late. Sen. Mark, Minister, please, I will ask for some decorum as we near the end of this sitting. So, please.

Hon. Maj. Gen. E. Dillon: Madam President, thank you very much.

Madam President: Minister, continue.

Hon. Maj. Gen. E. Dillon: I apologize. I cannot help, Madam President, because you did not care in those days when you sat down there. You did not care, but let

me tell you what they are doing right now. The measures that are being taken to ensure that this Government cares about the firemen and fire women [*Desk thumping*] that are being taken right now, because it is being done in three phases right now.

They are now doing the looking, doing the research. So far, they have identified more than six, 700 hundred fire officers who will fall under the category. Phase two is to do the audit, and then the payment that is being taken care of right now. [*Desk thumping*] It is sure as ever; it is going to be done. There is a system and there is a process to be followed, and that is being done, which you call a Government, responsible government. This is what is happening right now. Yes. [*Crosstalk*]

Madam President: Minister, continue.

Hon. Maj. Gen. E. Dillon: Compared to nothing. Sen. Mark, you have plenty time on your hands. Anyhow, Madam President, I can assure you and I can ensure the country and I can assure the members of the Trinidad and Tobago Fire Service that this Government will ensure that they get what they deserve. [*Desk thumping*]

And before I close, Madam President, let me end on a good note. Let me take the opportunity to wish every mother in the House [*Desk thumping*] and every mother in Trinidad and Tobago a very wonderful and blessed Mother's Day and may they enjoy it with their family and friends. [*Desk thumping*] I thank you very much, Madam President. [*Desk thumping and crosstalk*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.10 p.m.