

**SENATE**

*Monday, November 29, 2010*

The Senate met at 1.00 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence from today's sitting to Sen. The Hon. Therese Baptiste-Cornelis; Sen. Patrick Watson; and Sen. Prof. Harold Ramkissoon who are all out of the country, and Sen. Dr. Victor Wheeler, who is ill.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Professor George Maxwell Richards, T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency Professor GEORGE  
MAXWELL RICHARDS, T.C., C.M.T.,  
Ph.D., President and Commander-in-Chief  
of the Republic of Trinidad and Tobago.

/s/ G. Richards

President.

TO: DR. VIDHYA GYAN TOTA-MAHARAJ

WHEREAS Senator the Honourable Therese Baptiste-Cornelis is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VIDHYA GYAN TOTA-MAHARAJ, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Therese Baptiste-Cornelis.

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 29<sup>th</sup> day of  
November, 2010.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency Professor GEORGE  
MAXWELL RICHARDS, T.C., C.M.T.,  
Ph.D., President and Commander-in-Chief  
of the Republic of Trinidad and Tobago.

/s/ G. Richards

President.

TO: MR. ANTHONY MOORE

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

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ANTHONY MOORE, to be temporarily a member of the Senate, with effect from 29<sup>th</sup> November, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Patrick Watson.

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 29<sup>th</sup> day of  
November, 2010.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency Professor GEORGE  
MAXWELL RICHARDS, T.C., C.M.T.,  
Ph.D., President and Commander-in-Chief  
of the Republic of Trinidad and Tobago.

/s/ G. Richards

President.

TO: MRS. PARVATEE ANMOLSINGH-MAHABIR

WHEREAS Senator Professor Harold Ramkissoon is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PARVATEE ANMOLSINGH-MAHABIR, to be temporarily a member of the Senate, with effect from 29<sup>th</sup> November, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Harold Ramkissoon.

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 24<sup>th</sup> day of  
November, 2010.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency Professor GEORGE  
MAXWELL RICHARDS, T.C., C.M.T.,  
Ph.D., President and Commander-in-Chief  
of the Republic of Trinidad and Tobago.

/s/ G. Richards

President.

TO: PROFESSOR DAVID PICOU

WHEREAS Senator Dr. Victor Wheeler is incapable of performing his duties as a Senator by reason of his absence:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVID PICOU, to be temporarily a member of the Senate, with effect from 29<sup>th</sup> November, 2010 and continuing during the absence by reason of illness of the said Senator Dr. Victor Wheeler.

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 29<sup>th</sup> day of  
November, 2010.”

### **OATH OF ALLEGIANCE**

*The following Senators took and subscribed the Oath of Allegiance as required by law: Dr. Vidhya Gyan Tota-Maharaj; Anthony Moore; Parvatee Anmolsingh-Mahabir; Prof. David Picou.*

### **LAND TENANTS (SECURITY OF TENURE) (AMDT.) BILL**

Bill to amend the Land Tenants (Security of Tenure) Act, Chap. 59:54, brought from the House of Representatives [*The Minister of Housing and the Environment*]; read the first time.

*Motion made*, That the next stage be taken at a later stage of the proceedings. [*Hon. Dr. R Moonilal*]

*Question put and agreed to.*

### **INTERCEPTION OF COMMUNICATIONS BILL**

Bill to provide for and about the interception of communications, the acquisition and disclosure of data relating to communications, the acquisition of the means by which electronic data protected by encryption or passwords may be decrypted or accessed and other related matters, brought from the House of Representatives. [*The Minister of National Security*]; read the first time.

*Motion made*, That the next stage be taken at a later stage of the proceedings. [*Hon. Brig. J. Sandy*]

*Question put and agreed to.*

### **FINANCE (NO. 2) BILL**

Bill to provide for the variation of certain duties and taxes and to introduce provisions of a fiscal nature and for related matters, brought from the House of Representatives [*The Minister in the Ministry of National Security*]; read the first time.

**Mr. S. Panday:** Mr. President, I beg to move that the next stage of the Bill be taken—I see here on the document Monday, December 06, 2010. However, I wish to have further discussions with my colleagues on the other side to determine whether it is Monday or Tuesday.

*Question put and agreed to*, That the next stage be taken on a date to be fixed.

### **ORAL ANSWER TO QUESTION**

#### **Appointment on State Boards (Details of)**

**3. Sen. Penelope Beckles** asked the Hon. Prime Minister:

A. Could the Prime Minister inform the Senate of the number of state boards appointed by her Government as at

November 03, 2010 and the number of persons appointed to the said boards?

- B. Could the Prime Minister also indicate the number of women appointed to the boards that have been appointed as at November 03, 2010? and
- C. Could the Prime Minister further indicate the number of women appointed as chairmen of these boards as at November 03, 2010?

**1.15 p.m.**

**The Minister of Planning, Economic and Social Restructuring and Gender Affairs (Sen. The Hon. Mary King):** Mr. President, yes, it is my honour to respond on behalf of the hon. Prime Minister. With reference to my response to question 3, please permit me to proffer same with up-to-date information existing as at November 25, 2010.

I would, therefore, like to inform hon. Senators that as at November 25, 2010 a total number of 79 boards were appointed by the Government and a total of 639 persons have been appointed to those said boards, and this figure excludes persons selected by non-governmental bodies and those appointed pursuant to legal requirements.

In response to this question, the Government as at November 25, 2010 appointed 198 women to serve on the said boards. [*Desk thumping*] This figure represents 31 per cent of the total number of board members appointed to date. [*Desk thumping*] A comparative analysis of a similar 83 state boards constituted before May 2010 was conducted, which revealed that the composition of women on state boards was 26 per cent of the total number of state boards which was appointed.

The Government of the People's Partnership has, therefore, increased the participation of women on state boards by 5 per cent to date. We are still in the process of appointing over 20 more state boards. We have, therefore, increased comparatively the number of women serving in the state sector. This is consistent with the People's Partnership commitment to gender equality in our society.

One of the main tenets of the People's Partnership Government is the recognition of women as decision-makers and policy-makers in framing our society. This is evident in the increase in women's presence on state boards as stated earlier. Women's presence in political leadership plays a pivotal role in economic development.

Today, giving power to women is described as the engine of development. The People's Partnership Government believes that the integration of women into areas of guidance and governance will enable organizations to be a more potent force for good; a more powerful engine of economic growth; and a more prolific creator of value for society.

Women's representation on boards demonstrates a commitment to equity. Diversity is associated with better corporate governance including more effective use of director skills and experience, better debate on issues and collective decision-making.

Mr. President, gender equality as a human right was at the heart of the United Nations development plan for the third millennium. The platform stresses, and I quote:

“Having an equal voice in political decision-making from the family to the highest government levels is a key element to empower women.”

The People's Partnership Government believes that while it is not solely the State's responsibility to entrench gender equality, and that the wider society should share and act on the social imperative, the People's Partnership Government has pledged its commitment to the integration and participation of women into areas of governance.

Mr. President, I would like to inform the hon. Members of the Senate that as at November 25, 2010, 10 women were appointed as chairmen of state boards as at that date. [*Desk thumping*] This figure already surpasses the six women chairmen who had been appointed by the last administration, and the Government is still in the process of appointing boards.

I thank you. [*Desk thumping*]

**Sen. Beckles-Robinson:** Mr. President, thank you very much. Could I ask the hon. Minister of the list given today of the number of women appointed, how many have actually received their instruments?

**Sen. The Hon. M. King:** I am sorry, but the answer to that question, I do not have it in my possession. I am sure if you file the question it would be answered at the appropriate time. [*Desk thumping*]

### ARRANGEMENT OF BUSINESS

**The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Mr. President, thank you very much. On moving the Motion for the adjournment at the close of the last sitting, I indicated that if the Interception of Communications Bill, 2010 and the Land Tenants (Security of Tenure) (Amdt.) Bill, 2010 were completed in the other place, the Senate would consider those Bills today.

After discussion with the Leader of the Opposition Business in the Senate and Independent Senators, it was agreed that the Land Tenants

(Security of Tenure) (Amdt.) Bill, 2010 would be considered first, followed by Motion No. 1 under Private Members' Business, and time permitting, we will do the Interception of Communications Bill, 2010. That is our legislative agenda for today.

*Agreed to.*

**LAND TENANTS (SECURITY OF TENURE) (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. President, I beg to move,

That a Bill to amend the Land Tenants (Security of Tenure) Act, Chap. 59:54, be now read a second time.

Mr. President, as I begin my contribution, permit me to thank hon. Senators and the Chair for the opportunity to address this Senate and to note, in the beginning, that it was about 14 years or so ago that I first came to this Chamber as a postgraduate student Senator. [*Desk thumping*] Mr. President, indeed, I have some much cherished memories, not only of the personalities involved in this Chamber at that time, but of the high level of debate and analysis that one expected in this Senate. So, it is a pleasure to return 14 years later or so.

To the Hindus, I think, 14 years has some significance, when you return 14 years later. [*Interruption*] It was Lord Rama who returned from the forest 14 years later having been in exile. So the Hindus have an appreciation of 14 years—not that I was in exile—it is the significance. Thank you very much for the opportunity, and I look forward to this debate this afternoon.

Mr. President, may I also say that it is my pleasure to be here since

there are some familiar faces opposite who over the years have been involved in public service together. Although I missed them dearly from the other place, it is a pleasure to be here to interact with old friends, acquaintances and colleagues from the last Parliament over the years. So, for me, this is a privilege.

Mr. President, the matter that brings me here is a matter of an amendment to the Land Tenants (Security of Tenure) Act. You will notice from the amendment that has been circulated, it involves all of two words “on” and “or”. That is the nature of the amendment.

Mr. President, consistent with the extent of the amendment, I would wish to limit my contribution. I pray that Senators would also encourage me to limit my presence and my presentation. It is really two words that brings me here, “on” and “or”. Having said that, I am extremely happy to be here and will also entertain the discussions and whatever ideas and suggestions emerge, notwithstanding the size of this amendment. I am sure that it may give rise to some related matters in this area of land law and the management of land and the relationship between landlords and tenants, which by itself is a significant issue. I look forward later in the proceedings if there are some issues that are raised that we can respond.

The Land Tenants (Security of Tenure) Act, Chap. 59:54 was passed on June 01, 1981. The main purpose of this Act was to protect land tenants who had houses on rented lands from being evicted by owners of those lands. Currently, I am informed that there are approximately 4,000 land tenants throughout Trinidad and Tobago. When we use the word “tenants”, we mean persons who are renting on private lands and not state lands.

The Act stipulates that where a tenancy existed at the appointed day of

commencement of the Act, that is June 01, 1981, it was automatically converted into a statutory lease for 30 years. During the period of the statutory lease, the tenant has the option to renew the lease for a further period of 30 years or purchase the parcel of land at half the market value of the land.

In order to exercise the right of renewal, section 4(3) of the Act provides that the tenant is required to serve on the landlord written notice of renewal, at least six months before the expiration of the original term of the statutory lease. Upon service of the notice by the tenant to the landlord, the statutory lease is deemed to be renewed for a period of 30 years, subject to the same terms and conditions and to the same covenants, if any, as the original term of the statutory lease, but excluding the option for renewal.

The expiration of the original term of 30 years of the statutory lease will be on June 01, 2011, since the appointed date of the beginning of the term of that statutory lease was on June 01, 1981. As such, in accordance with section 4(3) of the Land Tenants Act, the tenants must serve notice of renewal upon the landlords on or by November, 30, 2010 which is hours away.

Presently, many tenants, due to a lack of knowledge, lack of communication between landlord and tenant or otherwise, are unaware of the requirement to serve the notice of renewal, and also of the date upon which this must be done. Mr. President, you will appreciate there are circumstances in which a tenant may not even know the identity or the location of a landlord over the years as that relationship may have taken on a different turn due to death, migration and other transfers of title and so on.

In order to sensitize the public as to the requirement for serving a

notice of renewal on the landlord, the Ministry of Housing and the Environment, in collaboration with the Ministry of Legal Affairs, embarked upon an extensive public relations campaign in the form of radio and print media. You might have heard advertisements on the radio and seen notices in the press, which alerted all land tenants to comply with the provisions of the Act.

Mr. President, just for the record, I have in my hand, one copy of the notice for renewal for statutory leases and this, incidentally, is from the *Daily Express* dated Monday, November 22, 2010 at page 59. There is a part of the ad that you can cut out and that constitutes the notice, the relevant information and the data.

These copies were made available through the daily newspapers which also provided a telephone number of persons in the Ministry who were assigned to assist members of the public. However, reality would tell us that in spite of sensitization and public education, many land tenants would still fall through the cracks by not adhering to the statutory requirement of serving notices of renewal on their landlords.

**1.30 p.m.**

Mr. President, a tenant who does not serve a notice of renewal on the landlord could be evicted from the land and lose the protection of the Act, in that, he or she would no longer have the option to purchase the land at half the market value and, in essence, would no longer hold the land as a statutory lessee. Such a person would now have to make some other type of application for legal title to the land.

Since it is imperative that tenants all over the country are assisted in exercising their legal right to renew their leases, it is recommended that the

Act be amended by extending the time for notices of renewal to be served on landlords on or before May 31, 2011. This will provide for those tenants mentioned above, that is, those who still may not have served notices on their landlord, a further extension to take us beyond November 30, 2010. In this regard, an amendment to section 4:(3) of the Act is being proposed in the form of:

“In order to exercise the right of renewal conferred by subsection (2), the tenant shall serve on the landlord a written notice of renewal...on or before the expiration of the original term of the statutory lease.”

I would like to add that, after this amendment is made, the Ministry of Housing and the Environment intends to embark on a public relations and education drive to encourage all land tenants to exercise their option to purchase the land for half the market value as provided for in sections 5:(5) and 9 of the Act.

This would be of paramount importance since the Act extends only for another 30 years—that is up to 2041—after which time tenants would not be protected. In effect, therefore, tenants—and this includes their assigns—are given by this Act a period of 60 years to exercise the option to purchase the land. Thirty years have already gone. In light of the foregoing, I recommend that consideration be given to this Bill to amend section 4:(3) of the said Land Tenants (Security of Tenure) Act, Chap. 59:54.

We are also mindful that by amending this Act we are also trespassing on property rights and, therefore, pursuant to our Constitution, this amendment will require a constitutional majority.

Mr. President, I beg to move.

*Question proposed.*

**Sen. Penelope Beckles-Robinson:** Mr. President, I would like to join this debate on the Land Tenants (Security of Tenure) Bill. In so doing, I take the opportunity to, first of all, congratulate the hon. Minister of Housing and the Environment for having attained his legal certificate of education, having been called to the bar—now, you know which bar—[*Laughter*]*—*and having joined the distinguished profession of which Sen. Hinds, Sen. Al-Rawi, Senior Counsel, Sen. Prescott and, of course, Leader of Government Business, Sen. Panday and myself are all members and, of course, Mr. President, your good self. I wish him all success.

The hon. minister indicated that this debate really involves two words “on” and “or”, but the hon. Minister, now having joined the legal profession, would know that there are many cases which have turned on those two said words “on” and “or”. [*Laughter*] As a matter of fact, he would also know that there are some judgments which could exceed more than 100 pages on these words, Mr. President, of which I am sure you are quite aware. That leads me to say how important these two words are.

I am happy that the hon. Minister gave us some additional information as to why this particular piece of amendment was so important.

There are a couple of issues I would like to deal with, that is, whether tenants under these statutory leases are sufficiently aware and cognizant of all the implications of the expiration of their respective leases. The hon. Minister did indicate that, after this particular legislation has been passed, the Ministry of Legal Affairs would be going out into the public domain to educate some of the tenants, and the landlords as well. That is very commendable. I also want to indicate that I have seen the notices in the newspapers. I do not know if you have seen it, but it is a notice of renewal

of statutory leases and it has been placed in most of the newspapers, as well as on the website of the Ministry of Housing and the Environment.

We are aware that this is so important; over the last week I have had a few people come to seek my advice on this matter. I am sure there are other persons who they might have gone to, either lawyers or Members of Parliament. When people see these kinds of notices, the first thing they do is panic, because once they think of time running out, people panic. Some really do not understand exactly what is involved in the procedure and, therefore, the issue of going out into the public domain is very important.

The other issue is whether there are adequate procedures in place to address the renewal of these statutory leases and whether an extension of time to file these notices would be beneficial. These notices having been place, in the print and electronic media, that is, notices to both landlord and tenant, my only concern is that there are a number of persons who might have missed them.

Quite a number of persons are not aware of exactly what a statutory tenant is. When you look at the legislation, it defines that a tenant means:

“...any person entitled in possession to land under a contract of tenancy whether expressed or implied ,and whether the interest of such person was acquired by original agreement or by assignment or by operation of law or otherwise; and includes a tenant at will and a tenant at sufferance and ‘tenancy’ shall be construed accordingly.”

The statutory lease means:

“...a statutory lease into which an existing tenancy has been converted by section 4;”

Of course, having defined what a tenant is and what a statutory lease is,

indicates my reason why the whole issue of explaining this process is very important, because some people reading this really are not even clear that they actually fall under the category of a statutory tenant.

More importantly is the fact that there are a number of areas in Trinidad and Tobago, as the hon. Minister said, where persons do not even know the identity of their landlord, cannot find their landlord and, in some instances, the landlord is now deceased. A number of us here would know that there are persons who, from time to time, would like to purchase pieces of land they are on, as statutory tenants, but cannot do so for the said reason: you do not know the identity of the landlord or the landlord is deceased.

I was having a discussion with the hon. Marlene Mc Donald, who is the Member of Parliament for Port of Spain South, and she indicated that there were, at least, 11 landowners in that constituency who are unknown to the statutory tenants. She gave me an idea of some of those persons. You have the Bowen lands; the Blackman lands; Alice Borde and McShine lands. Some of these lands are well known to a number of persons. People ask you, "Where do you live?" "I live in the McShine lands" or "Blackman lands." You have Sooknanan lands, Sorzano lands, Walker lands, Pemberton lands, Boxerhall lands, Harrison lands, Mapp lands and Desperlie Crescent, and there are hundreds of persons who actually live on those parcels of land, who cannot purchase them. They would love to purchase those pieces of land, but cannot do that.

It means for those persons, for example, that they cannot, in some instances, apply to the Water and Sewerage Authority (WASA) for the purpose of having a water supply; they cannot apply to T&TEC for the purpose of having electricity. When you attend those places, the first thing

they ask is whether you have a lease or whether you can show proper title. We do know of instances where persons have been able to circumvent the law and have acquired both water and electricity. But there are some genuine cases who go to T&TEC or WASA where they would say, "If you cannot provide a proper title, if you cannot bring a document from the landlord showing that you, in some way, have some sort of lease, if you cannot supply us with a rent receipt, then you are not going to obtain these utilities." I am sure the Minister of Public Utilities would be aware of those situations.

Sometimes people come to the Ministry and ask for assistance. I know in one instance when the UNC was in office sometime ago, they passed some policy to treat with those situations, but very often, if you do not get a letter, you find that the utilities will not accommodate you.

Unfortunately in the last legislation there was the whole issue of the establishment of a Land Commission. That commission should have been established; unfortunately it never was. That commission would have been able to treat with this problem of which I speak. I am just simply asking the Minister to look at it, because clearly it was something that was never addressed. I am not apportioning any blame, because it might have been a matter that was overlooked for whatever reason.

The point is, we are now treating with this piece of legislation and the matter is now coming up. I do not know whether persons at his Ministry may have drawn that to his attention so he could be aware of it. Maybe it is a matter that could be addressed at some point in time, either through that form or through some other measure for those hundreds of persons. And that is not exclusive to the Port of Spain South area. There are several areas

in Arima: Samaroo Village, Calvary and Mount Pleasant. Actually there are places in Central and San Fernando.

There are a number of persons who actually are affected by this piece of legislation and you would find that generations of persons would continue to live on that piece of land. If your mother, father or somebody is deceased, you find that it becomes even more complex to treat with the matter. I am asking the hon. Minister to look into that and see whether or not there is some way the Government might be able to resolve the matter to help those hundreds of persons. I am sure it is probably in the thousands of persons who cannot benefit from this issue of purchasing the land at half the market value, because they do not know the identity of the landlord, the landlord is deceased or there is some complication that arises. I know he may not be able to give me the answer today. [*Interruption*]

**Sen. Panday:** Hon. Member, what recommendations would you have for a situation like that?

**Sen. P. Beckles-Robinson:** Unfortunately, the legislation actually deals with it. The legislation speaks of the setting up of a Land Commission; it was just never done, like so many other things. It is there. The legislation, of course, would have given the remedy, but it is just that the act of setting up the commission to treat with it was never done. I am just asking the Minister to look at it.

I know that it is obviously a new matter; it has been there. Nobody ever addressed it, but I am sure that as a Member of Parliament in both cases, the hon. Mr. Panday and Dr. Moonilal—[*Interruption*]

There may have been persons from your constituencies who would have come to you and would have asked if there is any way that you could treat

with it, I just want to touch on that as a matter that I think is very important.

**1.45 p.m.**

At the end of the day, Mr. President, I am saying that it is advisable that an extension of time to file the notice be granted so measures can be implemented to adequately circulate relevant information and, that respective functioning of the relevant authorities may be more adequately prepared with respect to addressing the renewal of such leases. Also, from a demographic perspective, it may be that a greater number of persons holding such leases may fall within areas that are traditionally more urban—and we know the Act exempts certain types of land, agricultural and other types of land, so that it would not apply to those particular persons.

The last area that I want to deal with is that it also refers—under section 5A, it talks about either the landlord or the tenant may apply for an assessment of rent. We do know that in many cases the rent being paid to the landlord is in some instances very miniscule. In some cases, again, when you go back to the whole issue of the identity of the landlord and the fact that the landlord may be deceased, that there is nobody to collect this rent—some people are paying, could be \$5, \$10. Actually, in some instances it is very small, in some instances it is much more substantial, so it brings me to the point of looking at the whole issue of the Rent Restriction Board.

That piece of legislation lapsed sometime ago. There was not an agreement between the Government and the Opposition at that time to have that piece of legislation passed. That piece of legislation required a special majority. So, to have this work effectively you would also need to ensure that you have a Rent Restriction Board in place if it is to work effectively, because where you have tenants on the land, 30 years, and some people

decide, well, it is too difficult, actually some people who own hundreds of acres of land and have tenants living there realize it is really just too complex to bother going into the issue of selling the parcels because somebody has to pay for the survey and a lot of the tenants really do not want to pay for the survey. The landlord, certainly, is not going to pay for the survey, so some people probably decide, well, it is cheaper for me to just remain there and pay the rent for as long as possible. So that is another issue.

In order for this Land Tenants (Security of Tenure) Act Chap. 59:54 to really be effective, as I said you need to have that board in place; you need to get the whole issue of the rent restriction back on track. Whilst I know that the Minister of Legal Affairs, during the budget debate indicated that this is a matter that the Government is looking at, the fact is, that it is such a long time that it has been inactive, of course it is going to be very difficult to really get that piece of legislation back on track because so many things have happened, I think it might be even as much as 10 years since it has been inactive and therefore some serious challenges would occur for that piece of legislation to actually be reenacted and the whole objective of it to once again materialize.

Mr. President, I just want to close by saying that the Opposition and the political leader of the People's National Movement, Dr. Keith Rowley have made it very clear that, we, on this side would be willing to support any legislation that is—[*Desk thumping*] in the interest of the people Trinidad and Tobago, we are also willing where necessary to assist in terms of amendments and our record to date in the Senate has been, without blowing our trumpet, we have supported almost every piece of legislation that has

been brought [*Desk thumping*] by the Government and we have always been in a position to have constructive criticisms and where possible to make the appropriate recommendations.

That having been said, I therefore want to say that on this side we will support this piece of legislation.

Thank you.

**Sen. Fitzgerald Hinds:** Thank you very much, Mr. President, for recognizing me as I, too, join to make a very, very brief intervention in this debate.

Mr. President, just taking from where Sen. Beckles-Robinson left off, I simply want to, because my friend Sen. Panday smiled with glee and looked in my direction, and as my team leader here in the Senate pointed out correctly, of course, we have supported all of the legislation brought before us when one considers the roots, the history from whence they came. The fact is, we would do that because as we have recognized most of the legislation that has come here thus far are bits of legislation that they would have met in the chambers of the Ministry of the Attorney General since having gone there. So we are very happy about that, but the day they start bringing their own with any mischief we would respond accordingly. I say so without apology.

It was indeed, a pleasure seeing the hon. Minister Dr. Moonilal, the Minister of Housing and the Environment, and I want to personally welcome him here. I remember when he first came to the other place, I observed him very closely and I have continued to since then. I have noticed recently that he has been given the very lofty title of successor and so on, so I want to congratulate him for that. [*Desk thumping*] Of course, he has sufficiently

learned in the business of politics to understand that the tip of the dagger has been placed at his back, but he would manage, he will manage fairly all right.

**Mr. Panday:** Experience speaks. [*Laughter and desk thumping*]

**Sen. F. Hinds:** Mr. President, you see how Sen. Panday claims his own experience, he having come back from the politically dead. [*Laughter*] Oh, my, my.

Mr. President, the Minister pointed out in his piloting of these measures that there were some 4,000 persons affected by this legislation, this amendment, at the time that the legislation was introduced in 1981 there were, according to the then Leader of the Opposition, Mr. Basdeo Panday, some 4,700 persons affected. It probably is the case that since then those 700-plus persons would have purchased the lands in question and we have now come to a figure of 4,000.

Sen. Beckles-Robinson was quite right, there are some difficulties for those who may have wanted to purchase the land. I speak here like Sen. Panday, from his personal experience, from my own personal experience, I was one of the persons who benefited from this and purchased a little piece of land on which our house in Belmont, where I grew up, was set and when I matured enough and I started to work, I was able to purchase that piece of land at 50 per cent of the cost from the landlord at the time. So I enjoyed the fruits of this well-thought-out legislation and I am very happy now to be a part of the discussions to ensure that it continues to work for the benefit of many other people in Trinidad and Tobago. [*Interruption*]

Yes, Sen. Panday is using a word that his colleagues in the COP make regular use of, “conversation”. Whenever I hear it, I remember

Mr. Dookeran. Not getting too much hearing these days but I remember him when I hear it.

Mr. President, Sen. Beckles-Robinson was quite right, it does not surprise me that only, roughly about 700 persons have fallen out of that bracket since 1981, because really, when you consider there was a formula that was put in place at that time for the calculation of what the rent should have been on that statutory lease, that formula was very much to the advantage of the tenants to the extent that the tenant had occupied the chattel house upon that tenanted land. If, of course, the house was not occupied by the tenant and they were renting it out or it was otherwise occupied for any reason, then market forces would have prevailed insofar as the rent was concerned, but for the tenant who was in occupation of the chattel house, upon those tenanted lands, he or she would pay, in accordance with the formula, and it worked greatly in his or her favour.

The question as Sen. Beckles-Robinson raised of the cost of the survey and all that, those things, the small rents on the basis of the formula and the expenses that purchasing the land might incur, they acted as disincentives to many people. So those 4,000 persons—and of course, apart from those disincentives, Sen. Beckles-Robinson was very lucid in her demonstration, particularly in East Port of Spain where you have a situation where there are some—how many landlords who cannot be found?

**Sen. Beckles-Robinson:** About 11.

**Sen. F. Hinds:** About 11 major landlords cannot be found, and therefore, that situation has to be attended to.

The Minister—I think, Sen. Panday, intervened to suggest that they propose to—no, I think it was the Minister, yes—to embark upon an

education campaign and to encourage people to purchase lands after the passage of this amendment.

However, Mr. President, if they encounter the 11 unidentified or missing landlords, well, we have a problem. Clearly, from the look on the Minister face—and the Leader of Government Business in the Senate, the point made by Sen. Beckles-Robinson, obviously took the Government by surprise. It appears—I do not know I might be wrong—as though they did not think about that. They had no knowledge of that before they came to this Senate and the other place with this legislation. I am just saying that on the basis of the look of consternation that fell upon their countenances as they heard it [*Laughter*] from, of course, Sen. Beckles-Robinson. Of course, if that is not the case they can say so, I mean I am not ascribing any improper motives, I am just saying what I saw and it raises some issues for me. Now, I would like to know from the hon. Minister, why did the Government decide to extend the time until May?

Now, let me make it clear. We think it is a good idea. We have indicated our support for it. I am not offended by it. We are not objecting to it, but I would simply like to hear from the Government what prompted them to take that policy position to extend the time? Is it that the tenants complained to the Government that they were having some problems? What drove them to that policy position or was it purely for, as has happened sometimes, for political expediency? I say so not to cast aspersions on my friends opposite, but when this Bill was introduced in 1981, the Independent Senator, as he then was, Mr. Michael de la Bastide, a renowned lawyer, he spoke at length on these measures and he pointed out from the Independent Bench, that it appeared, given the haste and other surrounding

circumstances, that both the Government in 1981 and the Opposition were in an indecent haste to pass this legislation for political reasons.

So my suggestion that it is possible that the Government can have decided to extend this time for political reasons, is not as far-fetched as some people might think, and of course in 1981 at that time an election was looming large. How does the decision to extend the time to May affect the landlord? Did anyone consider that! Mind you, let me repeat that I am not offended, I am not objecting, I simply want to hear the Government's rationale for coming to this. Is it that this decision could now shift the balance further to the disfavour of the landlords? In 1981 as this legislation was contemplated and passed, it was obvious to all that it was about shifting the balance, the power that landlords at that time held vis-à-vis tenants.

**2.00 p.m.**

It was made clear in the course of the debate that this measure—the Bill as it then was—whilst it was being debated, was for the benefit of the so-called small man in the society. Of course, today, given the virtual economic revolution that Trinidad and Tobago has enjoyed and experienced since that time, the so-called small man is clearly a moving target. Who might have been a small man in 1981—there are many so-called small men who are now landlords themselves, so that the considerations, from a social and economic standpoint, are more than marginally different.

At any rate, the question remains a valid one. Is this shifting the balance that they sought to find in 1981 further to the advantage of the landlord as opposed to the tenant—this decision to go until May? I simply would like to hear some responses to that. And if at all, what is the empirical evidence that warranted this?

The year 1981 was an interesting time. We had experienced a so-called oil boom in the late 70s and by the early 80s things were pretty good in Trinidad and Tobago, and that was, perhaps, part of the reason for the problem. When this legislation was introduced—I see a very animated conversation taking place between the hon. Minister and Sen. Mary King, the economist. Anyway, let me proceed. He had better be careful about the advice he takes, but, you see, I understand, so I will not comment upon that.

The problem was that at that time and before, persons built so-called chattel houses with small bits of board and some sheets of galvanize. These structures were built on rented land, and they were easily movable when the period for their tenancy would have expired. They could take down the board; take down the galvanize and go somewhere else. But because of the economic well-being that fell on Trinidad and Tobago at that time, these small people, tenants, landless but needing a place to live like everyone else, were able by then to build more permanent structures. So that it was not about wood and galvanize anymore; it was now about concrete and steel and they were putting structures that were not easily movable upon the expiration of their presence on the land.

That was the problem that this measure in 1981 sought to address. So that the economic circumstances of the time contributed to that very problem, and when the Bill was first presented in 1981 by the then Attorney General, Selwyn Richardson, he recognized this problem. He even presented a few photographs of chattel houses he had seen in Barbados to demonstrate to the Parliament at that time what a chattel house was, as opposed to some of the structures, because in the communities that Sen. Beckles-Robinson spoke about, where these 11 landlords can no longer be

identified or found, I can tell you, I was in there on the weekend—and I represented parts of Laventille and Morvant for near 13 years—there are some substantial and significant structures inside those communities, you know. If it were possible to take them, you can put them in any district and they would stand tall in any community; some fantastic and well-appointed dwellings in those communities. In Beetham; all up the hills in Laventille; in Mount D'Or; in Petit Bourg, anywhere you go, you would find that, and that was part of the problem.

So that when the Bill was first presented, it was referred to as the Chattel Buildings Bill. But, then, based on a very effective contribution from Sen. de la Bastide, as he then was—and when I read his contribution I could easily have seen why he rose to the high status that he has achieved in the business of law and in Trinidad and Tobago; a magnificent contribution. The government at the time went into a joint select committee to look at the Bill and some major amendments were made, including a change of name to the Land Tenants (Security of Tenure) Act, as it eventually became. It was changed in committee—the very name.

So the common law position then was—and I am not very good at Latin, or not good at all, but in Latin, the common law position was: *quicquid plantatur solo, solo cedit*, meaning that if—

**Mr. Panday:** “Everything on the land belongs to me.”

**Sen. F. Hinds:** Yes. “What is on the land belongs to me.” So the measures in the Bill at the time were designed to rearrange that common law position, which was to the favour and the advantage of the landlord in relation to the tenant.

I have often expressed my great pride at walking with the symbol of

the balisier. This is another occasion when I feel obliged so to do. This legislation was well thought out; it was far-reaching in its consequences. Today, 30 years later, persons are still benefiting directly from it. I say so against the background of the fact that there are many, many young persons, unwittingly, who would come across a presentation from one of the current Members of Government in this country and if we do not take the time to remind them of these elements of history, we will have to forgive them for their being misled by some persons in this country for narrow, political interests.

So it gives me great pride to say to those who are listening, it was a PNM government in 1981 that saw the plight of the so-called small man and who, quite properly, decided to put in place measures to satisfy his desires, his expectations under the laws and the Constitution of the Republic of Trinidad and Tobago, and I feel particularly proud of that, and I see—

**Sen. Abdulah:** Would Sen. Hinds kindly give way?

**Sen. F. Hinds:** It is so hard not to be courteous to Sen. Abdulah, but every time I remember when he was speaking and I asked him to give way, he flatly refused. It troubles me, but I should give way to you again, hon. Senator.

**Sen. Abdulah:** Thank you very much, Senator. Of course, when you did ask me it was just before my time was about to elapse and I am sure you wanted to prevent me from making a key point. But would Sen. Hinds recall that it was the National Land Tenants and Ratepayers Association that was agitating for this particular legislation that then resulted in the government at the time bringing it; that it was the late Abdul Wahab, then President of the NLRA who did all of the work in mobilizing people and making the case for

the particular legislation? I just want him to complete the picture that he is describing of 1981.

**Sen. F. Hinds:** Mr. President, what I would say is that nowhere in the records was that to be found—nowhere. It is similar, you know, on the last occasion when we were discussing the Petrotrin Pensions Bill and the question of the national oil company came up and I pointed out to the hon. Senators opposite that it was the PNM government, using revenues it would have garnered from increased oil production on the part of Trinidad and Tobago that bought out the majority shares in those foreign oil companies and we ended up with National Petroleum, Sen. Abdulah intervened similarly to tell me that it was a point mooted since before Dr. Williams went abroad to study, that the leader of the OWTU at the time, Kola Rienzi, was the one who had first mooted it. I do not know, Sen. Abdulah, the fact of the matter is, it was a PNM government that passed that legislation in 1981—[*Desk thumping*—]a PNM government. I get the impression you spend a lot of time in a dusty red room somewhere in south, under a lamp, trying to find all these obscure positions to come to share with the national community. I mean, we are not interested in that.

**Sen. Abdulah:** Facts of history. Those are facts of history.

**Sen. F. Hinds:** That is what I call red revisionism.

**Sen. Abdulah:** Facts of history.

**Sen. F. Hinds:** I know you have an ideological issue, but I do not mind. That explains why you locked hands with Watson Duke and company a few weeks ago in Port of Spain; solidarity, yes, and the Government took note of it; other elements of the Government, they took note of that.

**Sen. Abdulah:** Something you have never done, locked arms with the

workers.

**Sen. F. Hinds:** You know I have trade union blood myself. You know that.

**Sen. Abdulah:** That was your brother, not you. Do not try that.

**Sen. F. Hinds:** So as I am saying, it was a very forward-thinking PNM government, and I felt so proud when I looked at the history of these measures and felt doubly proud that we should be here today to support this and to continue on that path.

Sen. Beckles-Robinson, I think it was, raised the point, very importantly—no, I think it was the Minister as well, who raised the point that the measures would all expire in another 30 years.

**Sen. Panday:** Tonight.

**Sen. F. Hinds:** No, I am talking about the legislation itself, and therefore something has to be done over the next 30 years to resolve the issue of the 4,000 persons of whom we spoke. Sen. Beckles-Robinson spoke about the non-establishment of the Land Commission which was to deal with some of the issues that she raised, but that has not been forthcoming. What happened in the discussions at that time, though, the legislation had proposed the establishment of a Land Commission. When it went to the joint select committee, they agreed that the High Court should have jurisdiction over these matters and anywhere in the legislation that reference was made to the Land Commission, it should have been replaced by the High Court. I can tell you, as I am sure my colleague, Sen. Al-Rawi, will expand when he enters this debate, there have been a number of matters that went to the High Court and the High Court was able to resolve some of these issues to the benefit of both the landlord and the tenant.

I want to say, that committee that was established actually made two

very important recommendations, and I want to quote what they were, just for the benefit of those who may not be familiar, and that they include some of our colleagues on the other side, and so on.

Two important recommendations; and the objectives of the legislation—and they still exist today—were to ensure that some means whereby security of tenure may be accorded to a tenant/occupier of the lands, either by his being given the opportunity to purchase the freehold estate thereof, or to be granted a long lease without experiencing the feeling, rightly or wrongly, that he is being charged an exorbitant price or an exorbitant rent, as the case may be. That was one of the major concerns of the legislation.

Secondly, an opportunity in the balance; an opportunity for the landlord to realize a reasonable sum on the sale of the freehold interest in his land or in the alternative, to secure by means of a lease for a long term of years, for a more reasonable return on his capital investment in his land than he currently obtains.

Those were the two major recommendations that came out of the committee. When the debate was being wound up, the Attorney General at the time, Sen. Selwyn Richardson, pointed out—and may his soul rest in peace; he made a major contribution to our political and legal platforms in Trinidad and Tobago and I will always pay respectful tribute to him. By the way, when he did this, he was a member of the PNM; he was the PNM's Attorney General. Just by way of a reminder.

**Dr. Moonilal:** He was not NAR at the time?

**Sen. F. Hinds:** No, no.

**2.15 p.m.**

When all was said and done, he described the occurrence on that day as historic, because on that day the Independent Bench—every one of them present—the entire Government and the entire Opposition supported the measures of that Bill. Last week or a few days ago, I heard the very hon. Minister and his Prime Minister saying that there was a historic day in the other place when both the Government and the Opposition came together on an important piece of legislation and ensured its passage, even in circumstances where the support of the Opposition may not have been necessary in constitutional terms, but it was done and it was described as historic.

Mr. President, we support these measures, again, for the same reason we supported all the measures that the Government, since their coming into office, has brought to this House. That is to say, good legislation which they met well baked into the Attorney General's oven—if I may use that metaphor—and now they are serving it up on the nation, and we were quite prepared to commend it to the people of Trinidad and Tobago given the fact of its origin, PNM philosophy and powerful thinking on the part of the then government. It was Sen. Richardson who in winding up the debate in 1981, chose to quote his Prime Minister at the time the legislation emanated, but who by the time of the passage, was now dead, the late great Dr. The Rt. Hon. Eric Eustace Williams, who oversaw all of that, who history would show, always looked out for the little man, not only in Trinidad and Tobago, but the region and the world by his writings and his powerful thought. Selwyn Richardson quoted Dr. Williams at about 3.05 p.m. on that day, Tuesday, May 19, 1981, as saying and I quote:

“...that this is the best piece of legislation ever to reach the statute

books anywhere in the Caribbean.”

And that was the way Dr. Williams saw it. It gives me great pride—that was the way he saw this legislation.

So today, as we stand in this hallowed Chamber and we amend this legislation, we are obliged to remember its roots, we are obliged to remember those who have gone before—whether it was Selwyn Richardson or Dr. Williams—and the people of Trinidad and Tobago have benefited and will continue to benefit from these measures.

With those few words, Mr. President, I join my friend and my colleagues on this side and in the other place, in supporting these measures as good law and would like to hear the hon. Minister in his winding up on the issues that we have raised.

I thank you. [*Desk thumping*]

**Sen. Faris Al-Rawi:** Much obliged, Mr. President. I rise to join this debate—I had quite expected that certainly with the addition of the Chief Whip as he sits on the Government Bench in the Lower House, standing in enabled arms with the Leader of Government Business in this Senate, that we would have had sterling debates from the other side, the other meaning the Government Bench. I can perhaps offer the explanation why, in my opinion that has not happened. I am sure it had nothing to do with the attempt to trivialize this debate as one of simply an addition of two words and deletion of a few, but I think it is a reflection and I wish to put on the record before beginning full debate, that we in fact came here to the Senate—I came here in a very sick state, I must confess—prepared to debate four debates today. I was met with some surprise by those opposite to me, asking me why I come with mountains of books. You see, I had come with

mountains of books because I had prepared my work [*Desk thumping*] and I must express sincere displeasure at the manner in which the legislative agenda, which has yet to be published, is being dealt with in this Senate.

Whilst we are all solidly committed to giving our very best endeavour to do our small and very important part to making the laws of this country apposite to the best interest of our citizens, we cannot do so when we are put under immense pressure for preparation. Very short time windows, when it is that if some measure of reflection and communication—and I am borrowing the COP's word of conversation—if that conversation were to happen in this Senate, we would certainly be better off because I came prepared to deal with three debates today and one debate tomorrow, and I am saddened that the Government's agenda has derailed this process this afternoon. [*Desk thumping*] More so, that no one else other than the hon. Minister who came from downstairs, the Lower House, has stood to debate this because as I will show in a short while, this debate is not to be trivialized by the addition of two words and the deletion of three. That is not the case. There is a lot of case law on the books, the common law in Trinidad and Tobago, which demonstrates that this is, in fact, not a very simple issue.

Mr. President, we are here to debate the Land Tenants (Security of Tenure) (Amdt.) Bill 2010, and I note for the record that this is the fourth debate on this Bill. There was a debate in 1981, at the inception of this legislation; there was a debate in 1983; there was a debate in 1992; and there is a debate now, today.

In 1981 when this legislation was piloted—Sen. Hinds has taken us through the historical point, but the short point is that it was indeed very far-

reaching legislation with a very noble intent. This particular Act constituted one piece of legislation in a suite of legislation brought then by the government. Contrary to the attempt to do some revisionism today by Sen. Abdulah—I am sorry he is slightly detained elsewhere for a moment—I can say with absolute certainty, having revised the White Paper on land tenants, that the work was no small effort by the then government of the day. In fact, in a period of six years of reform, beginning in 1970 and ending in 1977, there were some 17 documents considered by the legislators of Trinidad and Tobago before inviting Prof. Whiley to come and revise the laws as it stood then in an inherent balancing act between the rights of property owners, landlords, and the rights of their tenants.

Mr. President, the legislation when it was brought then, sought to revolutionize the land registration as it relates, not only to the legal rights, but also equitable rights. I know that you are familiar with the system of land registration in Trinidad and Tobago which is a very imperfect one. The attempts in 1981 to radically transform the legislation, essentially sought at simplifying, not only the registration process as it relates to legal entitlements—those are people who are defined at law by virtue of deeds or other instruments to be the lawful owners of property—but also to define the equitable rights, that is, those people who had a right by virtue of their sweat or the fairness of their position in having invested into lands which were owned by others. The suite of legislation brought then, regrettably, through a succession of Governments has fallen into a sad state of affairs.

At present, a concurrent system of registration as it relates to lands that are already registered under what we would call the common law system—that is a registration of deeds—and lands that are registered under

the Real Property Ordinance which is where one has a crown grant or a certificate of title and one's interest is represented at the back of that by way of memoranda.

Mr. President, what has happened by a failure of implementation through successive governments, and, that is, ending in the PNM's tenure, moving then to the NAR, moving certainly despite protestation set on the *Hansard* in 1983 and 1992 into the UNC government, the fact is that the system of land registration has fallen through the cracks, mainly on an account of failure to revise the administrative end of that system, and that administrative end I refer to is the land registry. I regret that the hon. Minister has come to this Senate without particulars.

You see, in 1981, after six to seven years of White Paper Consideration and Reform which involved very distinguished members of our society, Sir Hugh Wooding, Justice Fraser, all the then members—Carl Hudson Phillip sat as the Attorney General in those days—when this legislation was brought there was statistical information—what Sen. Hinds referred to, the need for empirical evidence—that statistical information demonstrated that there were approximately 70,000 land tenants then that the Government was seeking to regulate and deal with, and it was dealt with by way of a survey, by way of contemplation, begun in fact, by the St. James residents in 1970 in their petition to the hon. Prime Minister. I think their petition was in March and then the Prime Minister's action and the Cabinet's came in May of 1970. Suffice that to say, the point is that there was empirical statistical data which demonstrated that some 70,000 land tenants were then an issue.

Today, we have had a very bare statement that some 4,000 persons are

affected by this particular piece of legislation, but it has been done without any form of analysis, notwithstanding the fact—I know the hon. Minister is a visitor to this Senate, today, and I am sure that he would permit me the latitude of hitting those very broad shoulders of his by saying, that he is the Minister of Housing and that under the Ministry of Housing, he has what is now the Trinidad and Tobago Housing Development Authority and he also has the Land Settlement Agency, and that he has sitting next to him in this Senate, a Minister who is in charge of Planning, and that the correlation and statistical information in fact exist and I dare say that I believe it to be more than 4,000 persons. I believe that to be the case and I will die to the heart why it is not as simple as “or”. Forgive me, the words of the Bill being in fact, by section 3 “on/or”—the deletion of the words “at least six months” and the addition of the words “on/or”. It is not as simple because when one reflects on section 4 of the Act itself, Chap. 59:54, and one looks at section 4 which deals with the conversion of tenancies to statutory releases, one would notice that, and I read from section 4:

- “4(1) Notwithstanding any law or agreement to the contrary but subject to this Act, every tenancy to which this Act applies subsisting immediately before the appointed day shall as from the appointed day become a statutory lease for the purposes of this Act.
- (2) A statutory lease shall be a lease for thirty years commencing from the appointed day and, subject to subsection (3), renewable by the tenant for a further period of thirty years.
- (3) In order to exercise the right of renewal conferred by subsection (2), the tenant shall serve on the landlord a written notice of

renewal at least six months before the expiration of the original term of the statutory lease.”

And it is this subsection (3), where we seek to delete the words “at least six months” and instead insert the words “on/or”.

You see, Mr. President, nowhere in this Act is there an obligation that you in fact register yourself as a land tenant. The legislators in their wisdom failed to make it mandatory, that you in fact register yourselves under the Act. The Act contemplated that an arrangement could be reduced into writing in terms of Schedule 1 of the Act, but it did not make it compulsory for persons who were in fact land tenants who could take avail of the protection of this Act to in fact register themselves as such. So when we are contemplating extending the time frame up to the date when the 30-year tenancy expires, we are being unduly simplistic and that is so.

That is so, firstly, because the hon. Minister has come here despite being in the saddle for six months plus, without any empirical information.

**2.30 p.m.**

Secondly, because we do not know because there was no compulsory system for registration, how many people are representing persons who fall under the avail of this Act?

Thirdly, dare I say, in light of the history of the implementation of the provisions of this Act through successive governments, we should recognize as a naked truth the fact that dealing with land is a very complicated thing and I do not think, despite the best intentions and mechanisms for advertising and educating people, we will get much relief when we have not had the institution of the land commission as contemplated by the Act. Persons are in fact required to go to the High Court to deal with their

interests and, for those who are interested, this is but a sample of some of the High Court cases that are involved under this Act.

On the words dealing with renewal of tenancies and purchase and adding 50 per cent of market value, land in Trinidad and Tobago, as Sen. Deyalsingh put it in his first contribution, is a very sacred thing that we cannot seek to trivialize by coming here in the inefficient system which we have and hope, with the best of intentions, just to pass quickly a date. Mark my words, we are going to have to come back here to debate this very point, hopefully not in the very limited circumstances as we have come here today, that is, with four potential debates; with it being introduced in the House of Representatives on Friday and coming to this Senate on Monday when we are supposed to debate other pieces of legislation. It is not a simple issue.

Mr. President, in support of my contention that this is not a simple issue, I wish to refer to the hon. Minister dicta of the Honourable Mr. Justice Hamel-Smith, who I know is not you, Mr. President, but a relative of yours. This is in the High Court case No. 3598 of 1987. That is the case of *Lesaldo and Others v Vidale and Others*.

In his judgment, sitting as a High Court Judge, the honourable Mr. Justice Hamel-Smith, in dealing with a right to acquire under that Act—because renewal in context of this debate moves to one's right to be able to acquire—let me put a pin in the argument at this point—had we not sought to extend the date as we now do, on the expiry date of the 30-year lease, those persons who had not extended their leases, which may or may not have been in writing, would have found themselves with an eviction notice. It was, however, Parliament's clear intention that those persons should have had the benefit of a 60-year lease.

Taking that pin out and returning to Mr. Justice Hamel-Smith, in dealing with a claim for a right to acquire lands under this legislation, Mr. Justice Hamel-Smith said—and I quote at page 4 of his judgment:

“Attorney for the applicants has submitted that as long as I was satisfied that the first applicant was a ‘tenant of the lot’ I could give directions under section 15 of the Act and have the property vested in the applicants...He submitted that there was ample evidence before the court to hold that there was a tenancy...”

Skipping along and moving to page 5, Mr. Justice Hamel-Smith then goes on at the second paragraph to say:

“I do not see the matter as being that simple. One purpose of the Act is to allow the tenant to purchase the lot from his landlord at 50 percent of its value. The tenant simply serves notice on the landlord of his intention to purchase the lot and if the landlord does not agree on a value an application can be made to the court to have that determined. Section 15 is intended to assist the tenant where the landlord cannot be found or ascertained.”

The judge was dealing in that case with a position where the tenant could not find the landlord at that point and desired to purchase the lands. Indeed, in dealing with this Bill, we are contemplating by allowing the right of extension of a facility to persons who cannot find their landlords and we are meant, while considering the law even by way of an amendment, to contemplate the realities of any situation in making sensible contribution to the law.

So the question before us now would be: Is six months as proposed an adequate time or should the hon. Minister be proposing something more

apposite to the realities of this situation and the complexities of land and the fact that this Act will be opening a floodgate to persons to head to the High Court to determine their interests?

Mr. Justice Hamel-Smith, said—and I continue reading at page 5 of his judgment:

“On a reading of that section I am of the view that it does not contemplate an occupier simply establishing that he or she occupies the particular lot as a tenant. On the contrary, in my view, that section presupposes that the person invoking its aid is a tenant with a bona fide landlord. It need not be said that one cannot be a tenant without a landlord. The landlord must exist and, to exist he must have had some valid claim to the reversion, whether it be freehold or leasehold. Such ownership is necessary in order to ultimately pass the title to the tenant on the provisions of this Act.

Further, the Act is not a 'one sided' Act; it does not pretend to look simply at the rights of the occupier of the lot only. It takes into consideration the rights of the landlord. In its preamble it recognizes that it is depriving a landlord of certain rights; not only does the Act force him to sell his property to the tenant but he is forced to sell it at 50% of the market value. Consequently, before depriving an owner of such rights it is incumbent on the Court to ensure that there is clear evidence that not only a landlord tenant relationship exists but the landlord is entitled to the reversion, whether it be by way of ownership of the freehold, a leasehold interest or even by way of a possessory title.”

You see, Mr. President, Mr. Justice Hamel-Smith, in dealing with this

legislation, recognizes in his analysis of the particulars of that case and later on in his judgment, in the hypothetical examples that he goes through, that we are not dealing only with the tenant's right or obligation to apply for a renewal of his lease, but we are also dealing with establishing whether in fact a relationship of landlord and tenant exists and that, I dare say, is not a matter that an extension until May 30, 2011 can solve.

That is to be complicated by dicta arising in another judgment before the High Court. I take you to a judgment of Mr. Justice Lucky as he then was in 1991. It is High Court Action 508/1991, *Emmanuel v Samuel*. In that case, the Honourable Judge was looking at an application under the Act that related to section 9 of the Act that allows the tenant to acquire the property from his landlord.

In dealing with this particular case, the learned judge set out—I could not find in the Court of Appeal any case that overturned this particular position—a ratio which causes a further complication to this Bill, and that is, I read from page 5 of Mr. Justice Lucky's judgment where he says:

“The Act provides for the security of tenure of land tenants and applies to tenancies in respect of land on which there is a chattel house used as a dwelling—section 3(1) of the Act reads:”

He goes on to quote section 3(1) and he quotes the definition of chattel house. In fact, “legislatively” being a definition which does not meet with the common law definition of chattel house; it having been turned on its head by way of moving away from the common law concept recognized in cases such as *Mitchell v. Cowie and Others*, where the house itself was a moveable entity and it is now by statute a permanent entity in the statement of policy in the debates arising being to encourage persons in Trinidad and

Tobago to invest in their homes and by having a security of tenure to do that without fear of being taken off their land.

Mr. Justice Lucky said:

“It appears to me that construing the relevant section with regard to the true purport of the Act, which is security of tenure, there must be a structure of some permanency on the land, which is being or can be used as a dwelling house...”

In this case, the learned judge was dealing with an old tapia house which was deemed by a valuation report to be obsolete. The judge in fact went on to hold that:

“There is no chattel house on the land in question, the house had been partially removed and destroyed. It seems to me that in order to claim that a statutory lease subsists there must be a chattel house affixed to the land. The true purport of the Act is to protect tenants of land on which their chattel houses are affixed and in which they live.”

So, Mr. President, this is another real example that the issue “on or”, the two word insertion into this Act and taking the extension only to determination of the tenancy, as the date is proposed to be, is in fact not to recognize the realities of the difficulties of the type of issues that will arise in this case. Dare I say that it is my humble recommendation to the hon. Minister and to his Government, not only that they get on with publishing, communicating and having conversations about their legislative agenda; but also that in considering amendments to be brought to this Senate and to the House and Parliament as a whole, they bring legislation which contemplates the realities of the use of our time. [*Desk thumping*]

We are here working for the people of Trinidad and Tobago and we cannot take a simplistic band-aid approach to amendments to legislation where we bring forward a date that does not make sense in terms of the realities of the complexities of the situation that the courts will have to deal with; they being the persons who have to determine anything that arises under this Act in failure of the appointment and establishment of a land commission.

There is in fact continuing dicta by Mr. Justice Aboud, as recent as 2007, in his judgment in the case of *Mankasingh v Sookdeo and First Citizens Bank Limited*. This is a decision in the High Court of Justice, High Court Action No. S-1057 of 1993.

Mr. Justice Aboud, in dealing with the scope and purport of this legislation as originally designed, had this to say at page 16 of his judgment:

“I should also mention that the Land Tenants Act was part of a package of legislation passed by Parliament in 1981, including the Law of Property Act, 1981 and the Land Registration Act, 1981 (both modelled on the UK legislation of 1925) that would have revolutionised the system of land law in this country, and, among other things, created a system of registration of legal and equitable interests. These two statutes have never been proclaimed due, in part (as I recall) to administrative difficulties in modernising the land registration machinery at the Registrar General's department. The Land Tenants Act therefore stands by itself in a legislative environment that is imperfect, uncertain, and in urgent need of executive or parliamentary intervention.”

[*Interruption*] The date of the judgment is December 31, 2007, but I would

be very happy to give you copies of all the documents I have to assist you and to assist us because we join you in supporting this Bill.

What I am referring to by way of support in Mr. Justice Aboud's judgment is the fact that the courts of this land are heavily taxed and the Report into the Administration of Justice by the Judiciary, 2008/2009 shows that is significant. The courts will be called upon very shortly to deal with a massive number of enquiries and claims as to persons' rights whether in the seat of landlord or in the seat of tenant under this legislation. We must be careful, recognizing the scarcity of resources in the Judiciary and in the Parliament, to bring appropriate legislation as carefully as we can to avoid mischiefs which can unfold by ill-thought consequences arising from rushed legislation.

**2.45 p.m.**

Whilst I support the legislation, as I must—and I say under duress—because the deadline date is, in fact, now upon us, if this is not dealt with today, Mr. President, we are going to end up in a horrible dilemma—[*Desk thumping*]—because six months to the expiry of the statutory tenant is up tomorrow, the 30<sup>th</sup>. Is it? Today is the 28<sup>th</sup>? Two days from now.

**Sen. Panday:** Midnight today.

**Sen. F. Al-Rawi:** Midnight today. Sorry, forgive me. So, under duress, this Senate—one speaker on the Government Bench. We have curtailed ours to three speakers on this Bench, because everybody was ready to speak, Mr. President; and, regrettably, the voices of the Independents are silent today; not because I think they do not want to contribute, because their contribution to this Senate is sterling [*Desk thumping*] in 1981, 1983 and

1992.

That demonstrates that this legislation would not be what it is without the voices of the Independents. [*Desk thumping*] But today they have been denied that opportunity because of our legislative agenda, or lack thereof. Whilst we must support the legislation today, it has serious consequences, and I cannot sit idly by for anybody to attempt to hoodwink the population into believing that this is a trivial amendment to the legislation. It is not.

There is a plethora of case law which supports my position, and, Mr. President, I wish to put it in the context of the balancing act which we are doing; because, contrary to recent publications, somebody dared to say in the press—and I forget who, or perhaps I wish not to say—that the PNM Bench has not been supporting legislation brought. Mr. President, I have lost count, but we are on to I think the third or fourth bit of legislation brought to this Senate which deals with the exceptions to the Constitution, as it relates to sections 4 and 5, where we require a three-fifths majority, and on every occasion, we have supported. [*Desk thumping*]

Not only because, perhaps, we were the originators of the legislation in some form in the two-and-a-half-year curtailed period that the PNM Government sat in the shoes of Government; but also because we recognize the need to support it. But, Mr. President, what I am saying is this Act and this amendment today have to be passed by a three-fifths majority, because it affects the rights of persons as established under the Constitution.

In doing that, Mr. President, what we are doing is taking active acknowledgment that we are balancing rights of landlords and of tenants.

You see, Mr. President, in 1981 when the legislation was originally cast, it was intended to provide a form of security of tenure resulting from the vagaries of war, beginning perhaps earlier from slavery and indentureship when persons settled lands in an ad hoc fashion.

But in getting that onto the record, the legislation originally contemplated keeping track of a market value by way of rental. That, unfortunately, as a result of inflation in the economy, in the period 1981—1983, resulted in a removal of the formula by which landlords could have a better return on their property. In fact, what we had in 1983 was a cap to pre-1981 values at \$4 and \$3, and what we call “peppercorn rentals” for land.

So, today, when we hit the 30-year marker, I do not want us to lose sight of the fact that what we are doing is telling the landlords, “You have another 30 years to run, and what we are doing is we are further taking away or eroding your rights to a return on your investment, or your ownership, or the legacy which has been passed to you.” You see, Mr. President, it is for the sacredness of the right to property, as enshrined in the Constitution, that we cannot trivialize this debate into two words. [*Desk thumping*]

Mr. President, I want us to bear in mind that we have a holy obligation, a sincere obligation, to watch carefully the rights of persons whom we are entrusted to look after. Mr. President, in dealing with the amendments to the law, as must happen, I do take cognizance of the hon. Minister’s statements in the Lower House when he spoke on Friday last, when he said that the Government would be looking to a form of reform, as

he later clarified, with respect to this section, and not to the Act itself. I wish to invite him and the Government to reflect upon the legislation as a whole, firstly.

Secondly, I wish to also invite them to look to the meat of the matter, which the extension to a May deadline will involve. I wish the hon. Minister to reflect upon the contributions of hon. Colm Imbert, Member of Parliament, as he contributed to the debate on Friday, where he suggested, perhaps, that we look to a date beyond the expiry of the lease; a holdover term. And I also wish to point him to the contributions of Hon. Sir Hugh Wooding, as set out in the White Paper on Land Tenants. This is a document which I sincerely commend to the hon. Minister in looking at the legislation.

Mr. Justice Hugh Wooding—he was then retired Chief Justice—provided a series of memoranda to—

**Dr. Moonilal:** What is the date of the document?

**Sen. F. Al-Rawi:** The date of the document, I believe it was lodged in the Parliament library on the February 11, 1977; and, again, I will be happy to pass a copy to you. It sets out all 17 of the documents which resulted in the travel preparatoire for this legislation; the 1981 legislation; the parent Act. Mr. Justice Hugh Wooding, as he then was, noted at page 16 of that document, that in his view, and I quote here:

“I agree that leases should be renewable, but would not require the tenants to apply for a renewal. In other words, the statute should provide affirmatively that they be renewed, subject to any defeasant conditions that it

may be thought appropriate to enact. However, the total period for which legislation should provide for such renewal should not exceed that proposed for periodic or short-term tenancies.”

Mr. President, there is wisdom in reflecting upon the words of those who contemplated the legislation, because it helps us to dive to the heart of what it is we should now, in amendments to that legislation, be considering. The original intent in this legislation was to provide for homes that survive the lifespan of the homes, hence there was a debate as to whether the leases should be for 25 years or up to 50 years; and that is why the 30-year term actually arose.

Originally, there was, in fact, also the intention that the leases, in fact, be for a period of 30 years in perpetuity. I would have argued, had I been permitted in those days, at two or three years old as I was then, to say that that would have run afoul of the rule of perpetuities and I would not have invited that; but suffice it to say the intention of the legislation seems to be that 60 years was the intention. If that is the case, I invite the hon. Minister to recommend to the powers that be that we sit as soon as possible in a Joint Select Committee to look at this legislation.

You see, had it not been for what I can describe as the genius of the Leader of Government Business in this House, Mr. Panday, in stumbling upon the expiry date for this legislation—[*Desk thumping*—we would have been, in Trinidad and Tobago, in a serious bit of hot water. So, I compliment Mr. Panday openly in stumbling, for the better good of all citizens of Trinidad and Tobago, upon the expiry date of this legislation.

*[Desk thumping]*

Mr. President, my simple point is to say, let us recognize that the system is inefficient. There is a very poor system of tracking legislation in this Parliament. Mr. President, I do not know how many of you have seen the movie “Groundhog Day”. It is a theoretical piece of work that involves a man who lives the same day over and over and over again, until he has an epiphany or life experience where he gets the lesson that God intends for him. Being a student of research, as I am, I cannot help but think that this Parliament is stuck, historically and at present, in a groundhog day cycle. The debates demonstrate that we go over the material over and over and over again. Sometimes there is an attempt at revisionism, failed as it is sometimes, or not; but the point is that we cannot continue in this cycle.

If my small contribution in Parliament is simply to break the cycle, Mr. President, then I hope that will be the case. *[Desk thumping]* Because we cannot continue in an inefficient system, and I regret that we are, in fact, not at Private Members’ Day, because there was a lot that I wish to contribute, not on the efficiency aspect of Parliament only but the efficacy aspect of Parliament, Mr. President.

You see, we cannot be in any form productive if we do not grab ahold of the mischief that we are dealing with. Mr. President, the mischief in this case—and this is not to share any blows to anybody in particular, because I think that my contributions to date will show, I am not interested in throwing blame. I am interested in moving forward. The green shoots of the PNM that sit on this Bench here are interested in moving forward. *[Desk*

*thumping]*

In my first contribution, I recommended that I did not see anybody win a race by looking backwards, and I wish this Government to take cognizance of the fact that we have to look forward, and not look backward, in a constant blame game that goes on. I will not contribute to that, Mr. President, and the level in this Parliament—in this Senate—has been excellent.

I am very grateful that it is, in fact, the Leader of Government Business in the Lower House who is piloting the legislation today. [*Desk thumping]* Because he will notice that there is a standard in this Senate amongst his own Bench that does not reflect that which prevail currently in the Lower House. I do not mean to be charitable, Mr. President, lest I run afoul of any Standing Orders or positions, but I encourage the Leader of Government Business in the Lower House to marshal in his troops; to tame their mouths to allow for meaningful contribution.

I commend to him, in the context of relevance to this Bill, all of the contributions in 1981, 1983 and 1992, in the Lower House and Upper House, but particularly in the Lower House, where he will see that the standard of debates was a very, very high one; and I regret that I am a Member of Parliament now, listening to a standard of debate that is a very poor one, not in the Senate but in the Lower House. I say that with all sincerity, with due respect, but we need to set an example to those who are listening to us, who are watching us, and who will read us in years to come, that we were relevant, we considered material particulars and we came up

with good legislation, Mr. President.

Mr. President, I promised Mr. Panday that I would not be too long.

**Mr. Hinds:** You have kept your promise.

**Sen. F. Al-Rawi:** I have kept my promise. [*Desk thumping*] I wish to be considered to be a man of my word. I am sure that he will forgive me for being short on this occasion. [*Laughter*] [*Desk thumping*] I am sure that you will accept my apology for not being as best prepared as I normally am for debate. [*Desk thumping*] I mean that in all sincerity, Mr. President. I had the opportunity to read these papers in the library just before coming upstairs, and I hope that you will accept the apology of the other Members of the Opposition Bench who came prepared today, but who could not contribute because we wish out of courtesy to assist the Government in their emergency meeting this afternoon.

I would not go into the propriety of the Diplomatic Centre. I know that there are those better able to guide them in their own Bench. I wish to extend a humble apology for those Members who could not contribute on our Bench today, and I do not know if Sen. Ali would stand also to offer an apology, but may I, on behalf of the Independent Bench also state—

**Dr. Moonilal:** You are speaking on their behalf?

**Sen. F. Al-Rawi:** Yes, I can speak on behalf of the Independent Bench, because we in this Senate are of a different kind, hon. Minister. We speak and we support each other when the opportunity arises. [*Desk thumping*] So I will not take too much difficulty in the fact that in another place it may not be that standard, but I wish to offer a humble apology on behalf of the

Members of the Independent Bench, if I may be permitted to do so, in their not being able to contribute to a very important piece of legislation that cannot be trivialized by saying that it is for two words only, [*Desk thumping*] because I know that they came prepared to debate three other Bills today.

Mr. President, I wish to state again, in the most sincere and harsh fashion, that we cannot tolerate debate which is of a gunshot kind. We cannot be brought to the table. Out of respect, I keep my mouth quiet, “Are there any nays as to a date proposed?” I wish to say no. I wish to say no, because how can I meaningfully contribute to the debate without preparation? I have a fiduciary responsibility in this Parliament to be prepared every time I come.

Mr. President, permit me to put one last knock into preparedness. How is it that persons prepare for debate in this Parliament without access to research material? Is that the reason Members in the Lower House come with newspaper clippings waving to and fro, and political “picong” debate?

**Sen. Panday:** And photographs of people’s houses?

**Sen. F. Al-Rawi:** Yes, and photographs. You see, Mr. President, in the fashion of law to which I am accustomed, I actually research with all tools available, and I cannot understand how Members in this Parliament contribute without access to search engines such as Lexis Nexis or Westlaw. I asked to get a copy, Mr. President, of Wiley’s book, the 1981 book, which dealt specifically with this legislation. The library has one copy which cannot be found. Somebody else has it. I went to the Supreme Court library before coming here, after leaving court this morning—because I had to go to

court and then come here and then read. The library of the Supreme Court did not have it.

**3.00 p.m.**

There could be a meaningful improvement in the standard of debate, because the Butterworths Publications is online. The laws, in a comparative sense, from the Commonwealth, are provided by way of packages. But, what are persons contributing with, by way of material in support of their claims, if they do not come having at least access to these materials? I feel hamstrung by an inability to conduct full and proper research. For those who do not have the facilities to research in the manner that I do, because law gives you a different form of training—we call devilling, as you know, Mr. President—when we research, we call it devilling, because it is the devil's work; the amount of details we have to go through and as quickly as we do, it is hard and hash.

Can I implore you, Mr. President, to recommend to the powers that be that every Member of the Lower House and Upper House be provided with a password and connection access to LexisNexis in particular, not Westlaw so much, because their Commonwealth legislation package is a bit limited and they do not have the publications of Butterworths in particular? May I recommend, if only to see a better standard of contribution from everyone, that that be a necessary tool.

The second plug I wish to put in, I understand that the Speaker of the House had put limitations on the use of laptops in Parliament. I confess to being a creature of technology and I find it very difficult to sit here—not

only is it environmentally unsound to have as much paper as I have printed off, but I find it difficult not to have access to my laptop and materials and research whilst sitting in this Parliament. It may even be a useful tool—  
[*Interruption*]

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Hinds*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you Mr. President. I promise not to be too much longer, but I was on the point of saying that the use of laptops in the Parliament may in fact be a very useful tool, in particular for the Minister and Leader of Government Business in the Lower House, because it may provide, for those who have a little bit of an attention problem, a useful and constructive distraction. I do not mean that in any derogatory sense, but I mean that perhaps people's energies may be better utilized in research, rather than constant crosstalk and "picong".

I humbly recommend that, for the efficiency of Parliament and as it relates to this Bill, we consider this legislation in a much more holistic sense. We on the Opposition Bench make ourselves readily available to the hon. Minister, who I wish to complement on joining the ranks of an attorney-at-law. I consider his achievements laudable. I have noted that his contributions are always solid. I am happy to have him in the fraternity of lawyers, as he now sits, and I wish to recommend that he take avail to the invitation to sit in a joint select approach or in a legislative agenda approach in coming up with reasonable and considered mechanisms to avoiding a

proliferation of litigation under this Bill, when it in fact becomes enacted in the Act.

With those few words, thank you for my—[*Desk thumping*]

**The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday):** Thank you, Mr. President. I did not intend to enter this debate, because I know that today is Private Members' day, but I think I need to respond to a few of the concerns raised by hon. Senators on the other side.

I want to say that all the contributions were good and will be taken on board. Before I commence, I also want to join in congratulating the Leader of Government Business in the Lower House on his admission to the legal profession.

Sen. Al-Rawi said I stumbled on the expiry date of the legislation. That was always in my contemplation, because in 2008 the hon. Prime Minister raised that issue at a caucus, and since then I have had it at the back of my mind to look at that legislation. That is why—may I say thank you for giving me the opportunity on the Land Acquisition Bill, last month, to bring that to the notice of the population. My information is that many persons have availed themselves of the opportunity. However, the hon. Minister decided to bring this legislation at this time, because there were many persons who encountered a number of problems which were raised by Sen. Beckles-Robinson, Sen. Hinds and Sen. Al-Rawi, in terms of the legalities of the relationship between landlord and tenant. Hence, in order to smoothen out matters, it was thought that we should come with this legislation.

Sen. Al-Rawi also made the point that there should not have been a

need to have to renew the tenancy in this manner. I think, in the Lower House, when the hon. Leader of the House was responding to that comment, he indicated that the Government may be coming back soon and that is one of the things that they will be looking at. Therefore, we were thinking about it long before Sen. Al-Rawi spoke about it.

Sen. Beckles-Robinson spoke about the Rent Restriction Board. In this argument today, we are speaking about balancing rights; the rights of the landlord against the rights of the tenant, in trying to develop an equitable situation. I agree with Sen. Beckles-Robinson when she said: what about the rent board? If one looks at the legislation, one would see when we speak about the Land Commission, it makes reference in section 5A; that amendment which came in 1983.

“The Land Commission may on application of a landlord or tenant review the rent in respect of land to which this Act applies in any area for which the Rent Assessment Board has been constituted under the Rent Restriction Act.”

The Land Commission envisages the presence or the establishment of a Rent Restriction Board. As you have rightly said, that is a balancing act and we need to have some sort of fairness in the matter.

As one knows, the Rent Restriction Act, Chap. 59:50, has a sunset clause which says it will come to an end after three years unless renewed. I am happy to see that you have embarked upon that approach, because, in the PNM government’s last term, the Minister of Legal Affairs indicated—when asked: what about the Rent Restriction Board?—he said that the PNM government had no intentions of going in that direction. I am happy to hear that the PNM has changed its policy position. I not saying that you would

change every minute, but you have changed your policy position and we would take that on board.

Sen. Hinds, what did he say? I move on to Sen. Al-Rawi now. *[Laughter]* Sen. Al-Rawi spoke about the shift in balance and the small man in society. Indeed, it is so. We are looking at the small persons in society, and in that process of looking at small persons in society we are interfering with property rights. That is why the legislation demands a three-fifths majority.

When one looks at the relationship of landlord and tenant, one sees a contract between private persons, but because of the social implications, the law has intervened. You spoke about in times of war and after the war there was insufficient housing and insufficient buildings. In the matter of tenancy of buildings, we had the Rent Restriction Act to protect the poor persons and also to create some social balance in the society.

Do you remember Chap. 59:50 section 14(1)(i)? Do you remember that? Section 12(1)(i) says that we protect the tenant so much, if you want the tenant out for your own use or repairs, you had to find somewhere of an equal standard for him. In that situation, you wanted to protect the tenant to the extent that the landlord cannot arbitrarily throw him out. What did the landlords do after that? They decided they could not get him out, so they stopped preparing the place and we had a reverse in the social system.

In the Agriculture Small Holdings Tenure Act, Chap. 59:53, you would see section 8. What does section 8 say? Section 8 states if you are renting agriculturals lands, you can have a number of leases, but the term of an agricultural lease cannot go beyond 25 years, because they want you to open up the land for agriculture in the social sphere. The point is that landlord

and tenant law, although it was private law, the State intervened for the development of society to have a social balance.

We also have in this piece of legislation, where one had residential property which was being occupied on June 01, 1981, this Act came into being to deal with that issue. What we had before was where landlords in 1978 would have served you notice and you may have had a concrete house on the property, and after six months, “go to de court, break down yuh house and throw yuh out.” That is why this legislation came in.

When you spoke about the cases with Justice Lucky and the chattel house—as you said, the law of the chattel house was turned on its head. The reason for that is that it was to protect tenants who built permanent structures on land and the landlords wanted to throw them out. This law, in 1981, prevented that situation. When we speak of a chattel house, as you rightly indicated—if you go to Barbados—as you said, Sen. Richardson at the time was defining what a chattel house was. There was a paragraph—from Barbados—do you remember you said that?

### **3.15 p.m.**

In Barbados, they built the house on bricks, and you have a tenancy. After the tenancy has come to an end, they lift your house off with a truck and move from one place to another. That was the chattel house that we spoke about.

In Trinidad and Tobago, when you indicated that the law had to be changed, we gave a new definition for chattel house. That is why, I think, the then Sen. Richardson, in 1981, went in-depth to define how we have shifted the law in terms of a chattel house. That is reflected in the legislation. It says:

“‘chattel house’ includes a building erected by a tenant upon land comprised in his tenancy with the consent or acquiescence of the landlord and affixed to the land in such a way as to be incapable of being removed from its site without destruction;”

You made the point that we have changed the definition for chattel house.

When Sen. Al-Rawi spoke about the decision which Justice Lucky had given, and that definition of chattel house, I want to humbly submit—you spoke about Emmanuel and who?—that is where he was trying to interpret what the chattel house was—I am not saying that you did not read the whole judgment, but you extracted the ratio in such a way to give the impression that a chattel house was creating a problem, when in every case—

**Sen. Al-Rawi:** Thank you hon. Senator for giving way. If I could just clarify, I do not want to have us walk away with the wrong impression. The ratio in that case was quite simple. I know that you are responding admirably, because you have not yet seen the judgment, because I just called it. Normally—courtesy at the Bar—I would give you a copy of it and then you could read it, but the ratio in that case was quite simple.

Justice Lucky said that he would not allow the tenancy to stand if it did not have a house on it. So, we are dealing with a situation where there is land which was under the Land Tenants (Security of Tenure) Act, and there was a house prior to the commencement of the Act and, therefore, it qualifies, but that house was destroyed or partially removed, such that residential occupation was no longer there, Justice Lucky's judgment—I am careful to see if there is anything in the Court of Appeal otherwise—says that they will fall out of the benefit of the Land Tenants (Security of Tenure)

Act.

He said, at the point you were considering the request, you must have a house on it, which was for residential purposes, and not only must it have existed prior to the commencement of the 1981 Act, but when you were dealing with whatever right you sought to enforce by way of renewal, extrapolating, or by way of seeking to buy the land as it was in that case, you had to have a house still on it.

**Sen. The Hon. S. Panday:** Change of use. Okay. Sen. Beckles-Robinson spoke about the absence of the landlord and where you cannot find the landlord for a period of time. I do not know, if you had the time, you would have gone into the later cases of Gumptee Ramnarace and the other developments, because you stopped at a certain point in the development of the land law. I am certain that if we had the time, you would have moved further into the development of the land law, because the land law is evolving at such a pace that you really cannot keep up.

You would remember after Gumptee Ramnarace, the question of animus possidendi and whether it should be *ab initio*. I am not casting any aspersions, but when one looks at that issue where the landlords cannot be found for a long period of time, at the recent judgments of Justice Pemberton and Justice Jamadhar, which tend to go in a slightly different direction with the use of that principle to deal with that issue, where the landlords cannot be found for a period of time, I do not know whether you could change the status of that for a tenant into a more secured position, using the principle of adverse possession. These are complications in the land law.

The reason we are in this position, as you have agreed—we spoke about Willy writing on land law, and land law and tenant law are very

complicated laws. I want to agree with you that we should sit together and see how we can draft legislation—as Sen. Hinds will always say—good legislation, which you can ensure will always come from this Government. [*Desk thumping*] I thought I would have raised that point.

You spoke about the suite of legislation; 17 pieces in 1981. I know that you know full well when the PNM passed that legislation why they did not proclaim it. I do not want to go into that area now. The argument you advanced was the state of the registry. Well, it is not only that. If you want to change from common law into RPO to have the deed that you spoke about, there is a complex process which people cannot afford. For example, the first thing you have to do is to survey, and because of the shortage of surveyors and the cost of surveying, you find that people are loathe to go into that direction.

However, wherever there are lands and people have acquired the lands in different methods and they want to rectify the title, you find them going in that direction. Maybe the time has come for us to look at that to see if we could bring all the lands, as you said, post-1925 English legislation, and have one system. I agree with you, the new system of registration is a more advanced and efficient system of registration.

I see Sen. Subhas Ramkhelawan is here. I would have really liked to go for a longer period, but I just want to answer a question raised by Sen. Hinds. The Senator asked, are we doing this because we are genuine or are we doing this for a political agenda. I want to inform him that in 1981 it was an election year. You had the St. James Ratepayers Association, the National Land Tenants and Ratepayers Association coming into being, and they were putting pressure on the government and, as a result, the George

Chamber's government passed this legislation. After he passed the legislation, he knew that the ONR was coming for the PNM and as a matter of political expediency the legislation was passed. Having passed this legislation as a matter of political expediency, what he said after that? Do you remember? "Not a dam seat for them." You did not hear about that!

We are saying that we are genuine in this. We have won the election by 29 to how much Sen. Al-Rawi? We have just won an election by how many seats? *[Interruption]* So, therefore, there is no need for us to play politics, but it is really a genuine desire on the part of this Government and on the part of the Prime Minister to ensure that there is equity and fairness in the society.

Thank you, Mr. President.

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. President, thank you very much. Let me begin by thanking all colleagues on both sides for their contributions this afternoon on this matter and, of course, I want to thank my colleagues for their personal greetings and congratulatory statements which were extended. You will understand why I would defer on some of these matters in law and bow to my seniors, Sen. Al-Rawi and the distinguished Sen. Subhas Panday. I prefer not to get involved in some of those highly technical matters for which those Senators are much more qualified than I am. I should respond to a few issues raised by my colleagues, lest I be accused of winding up in an ad hoc and careless manner, or not presenting particulars as I was accused of doing earlier.

Mr. President, it is very clear that the matters of land law and the state of land law in Trinidad and Tobago are very technical and complex matters.

These are difficult matters on several fronts; one is the issue of the complexity in the law and the parallel systems of law—common law and statute. There are also the various traditions involved in the legal area, but there is also another related matter and this is where, while law is everything, everything is not law.

There are social and economic issues tied up in the debate as well to understand communities; to understand the demographic and cultural features of communities that lend themselves to various development patterns and those social economic issues and culture are mixed up with the legal complexity that exists. That is why partially this has been such a bothering question for several years and it is difficult. I think Sen. Al-Rawi raised some of the complexities and some of the issues that require a much more comprehensive and considered approach to the reform of land law in Trinidad and Tobago.

Mr. President, I would just go through the contributions very briefly and seek to respond, as best as I can. In the beginning, I indicated that it was a pleasure to be here and returning years after, but when you return 15 years later, if it is one thing you learn it is patience, and to listen. Sometimes when you start this career at a young tender age you are more impulsive and, probably, impatient, but later on you understand the importance of patience. In our business, patience is not only a virtue, it could be a weapon.

Sen. Beckles-Robinson raised several issues and, I think, Sen. Panday touched on a couple of those issues and highlighted the complexity that we are dealing with like some of the more challenging issues in reform. I just want to indicate to Senators that the Ministry did obtain—we used the empirical figure of 4,000—data from the Land Tenants Association which

provided that type of evidence. Whether it is completely accurate, we are not sure, but that is the body that we got it from. As you know, that association has been doing yeoman service over the years in this area. There are persons like Mr. Shah Mohammed, Mr. Primchand Dass and Mrs. Jennifer Hudson Phillips and others who have been involved in lifelong struggle to place these issues on the national agenda.

Mr. President, there is a parliamentary tradition involved here which I would not really want to deviate from, but when you are a guest or a visitor to this Chamber, there is a level where you do not get involved in adversarial politics. Mr. President, substantially, I keep that part of my character for the House that I belong too.

There were some issues raised by my friends opposite which I am really duty bound to respond to. I did not raise those issues in the opening, because I felt that it was not necessary. In the circumstances, we are here for an amendment, and we are here to put right something that requires an urgent response.

My colleagues opposite, Sen. Hinds and, certainly, Sen. Al-Rawi raised those issues and I should respond, while respecting the parliamentary tradition in which I come here—when I come here, I come almost as a pilgrim.

Mr. President, Sen. Hinds raised the issue of why May, and it is a simple point. In the parent Act, the expiration is, indeed, June 01, 2011 and that is why May 31 presents itself as the extension of six months.

### **3.30 p.m.**

Mr. President, we did hear in the Lower House, in the other place, a suggestion from the Member for Diego Martin North/East. The Member a

few days ago had raised a related matter as to whether or not we could not amend beyond and give more time for our public education campaign. I am instructed that would not be possible given the fact that to extend beyond May 31 would mean, if we go there, the extension attaches itself to the statutory lease and there is no lease to go parallel with the extension. Tenants, in effect, would have no protection and would be holding over against the wishes of the landlord.

There is no time to deal with this matter. There is no time to address this matter; we need to deal with it urgently. Sen. Al-Rawi did make some heavy weather over our legislative agenda and the need to come here in what appeared to be an emergency context to pass. I just wanted to inform the distinguished Senator, I have in my hand an opinion by the Legal Department of the Ministry of Housing and the Environment. Mr. President, it would shock you to know that in September 17, 2008, the Legal Department did an opinion for the Minister of Housing—at that time it was the Minister of Housing, Planning and Environment.

After spelling out the problem which we are dealing with today, the conclusion in September 2008, was that:

“in light of the above, it appears that from practical application the Act does have a time limit and the future security of tenure of land tenants could be affected. Therefore the provisions of the Act should be reviewed as soon as possible, I so advise.”

September 17, 2008—the then Minister did absolutely nothing from September 2008; nothing, because she was busy trying to jail the current Opposition Leader. That is what she was doing. [*Laughter*] [*Interruption*] You agree with that; my colleagues opposite would agree. Their leader had

to spend every day of his life trying to stay out of jail.

From September 17, 2008, this opinion went to the then Minister who did absolutely nothing. Sen. Hinds in his contribution today indicated that he supported the law and that it was there in the oven of the Attorney General. I want to tell you something: the oven was not working, because it was not there. [*Laughter*] This two-word amendment had to be drafted a few weeks ago.

You see, Mr. President, when I became Minister a couple of months after, the legal department brought this matter to my attention and we had to quickly work with the Ministry of Legal Affairs, which is a very important Ministry in relation to this matter, and it required collaboration between the Attorney General, the Ministry of Legal Affairs, the Ministry of Housing and the Environment, the Legislative Review Committee, the Cabinet and the Parliament, for us to take this two-word amendment and bring it here. But we were committed that we would not bring it here one hour later than November 30, 2010. [*Desk thumping*]

My predecessor had in her possession an opinion from September 2008 that required her to ensure that a two-word amendment was made into an Act, and she did nothing. So please, while we stand accused of bringing something last minute and not planning and so on, you must understand.

I want to continue with my friend, Sen. Al-Rawi. I am really privileged to hear my friend opposite. It reminds me of some good tutorials I had, just a few months ago at Gordon Street in St. Augustine, so I was very happy. I took note of these judgment dates. I kept asking for the dates and my friend referred to a judgment in 2007, but more than that, a White Paper

from 1977. The party to which my friend is so proud to belong, spent 19 years in government, 65 per cent of the time since 1981, and could not have helped us. [*Interruption*]

**Sen. Al-Rawi:** NAR, UNC, everybody guilty.

**Hon. Dr. R. Moonilal:** Today we would have been richer had your party acted on this matter. Notwithstanding that, I am hearing my friend opposite and the judgments of several learned judges which gave us their thinking on the weaknesses of the current legislation and the challenges that we must confront; they are there.

I also want to put on record, because it is important to do so, that the Land Tenants Association's umbrella body is FITUN, the Federation of Independent Trade Unions. They were trying over several years, through my colleague Sen. Abdulah and others, to reach, to talk, to interface with the various Ministers of Housing, to place this matter on the agenda. It is a matter, while we may look surprised at how this happened today for tomorrow, that clearly those persons in the stakeholder community would have known of and would have been tracking it.

I understand that they tried for several years to meet the Minister, to raise this issue, to get to Parliament to bring the amendment and nothing happened. That is why we are here today; not here on this side necessarily, but that is why we are at this juncture to debate this amendment. So FITUN tried; the Legal Department at the Ministry acted with dispatch and provided their opinion and called on the Minister; nothing from September 2008. But, as I said before, we could not allow that situation to remain.

I really want to compliment my good friend, Sen. Al-Rawi. I shudder to think what your contribution would have been had you been prepared.

My friend got all his judgments and books, Wiley et al, and all the technical literature, and was very competent. I imagine we would have benefited already from your competence, when you served on the board of the Housing Development Corporation. [*Desk thumping*] We would have benefited from that competence.

**Sen. Al-Rawi:** And was fired! [*Laughter*]

**Hon. Dr. R. Moonilal:** Sen. Hinds did raise the issue. It fell to me to pilot this matter, not because I wanted to, but because the former Minister absconded and could not have done it.

I chose in the beginning to deal specifically with the amendment and not to get into a longer discussion on the problems with the parent legislation and the challenges. Like my colleagues opposite, I also do my research, so I am well prepared to talk about the 1977 Law Reform Committee on chattel houses. I am well prepared to speak on the report of the Commission of Enquiry into all aspects of building land in Trinidad and Tobago. This is the famous de la Bastide 1977 report that influenced, in some measure, the 1981 piece of legislation.

It is clear that the social and economic unrest at that time led in part to the passage of the 1981 legislation. Notwithstanding the good legislation, there was a difference that I just want to place on the record, in that, the 1977 record on the Commission of Enquiry into aspects of tenure, building land in Trinidad and Tobago, had recommended that the issue of provision for sale or grant of long lease should apply only to qualified areas and that other unqualified areas should be excluded and instead subjected to compulsory acquisition and redevelopment programmes. The long and short of it, Mr. President, is that the Bill catered for all areas and not qualified

areas as the Commission of Enquiry report had suggested.

I wonder, if the de la Bastide report which was praised so much by my friend, Sen. Hinds, was adopted, whether he would have had the opportunity to purchase a house under this Act, because they were qualifying the areas. I am not sure that he would have benefited. So he should be grateful that they did not implement the de la Bastide report in 1977 in its entirety. Sen. Hinds should be very grateful for that.

Another issue raised was the Land Commission, and it is very clear on that matter. The Land Commission is provided for in the parent legislation. I am advised that it has not been effected; it was not implemented; it was not established. That was supposed to operate something akin to an Industrial Court. It would be lay surveyors and technical people assisting a chairman, who would have the same rank as puisne judge, and there would be only appeals on points of law, something akin to the Industrial Court. The Land Commission was supposed to function like that. It was never established and that is a fact. There were several areas that were unclear in terms of putting this Land Commission into force. One, for example, was the limited amount of tenants who would be accessing something akin to a High Court. Over the years it was no secret that parties had to seek their interest at the High Court in the absence of this. The Land Commission was raised, I understand, by Sen. Beckles-Robinson.

The other matter that was raised was the Rent Restriction Act. The Ministry of Housing and the Environment, in accepting notices of renewal, did so in collaboration with the Registrar General whose permission was sought. This was done in a very calculated and systematic manner with a high level of cooperation of the Ministry of Housing and the Environment

and the Ministry of Legal Affairs. I express my own gratitude to officers in both Ministries for working, sometimes around the clock, to ensure that we were in a position where we could continue tomorrow and the days after, abiding the law.

The related matter is that it is very clear what we are doing is a stopgap measure, because we are extending that six months to the expiration of the statutory lease; so we are giving tenants an opportunity to fulfil that requirement of the law, but beyond November 30. That is the purpose today. It requires much more than this; it is very clear. Because of the persons themselves and the nature and character of that group of people that we trying to relate to, the tenants and so on, it may well be that the six months is not enough, and this was a matter raised in the other place. It is our intention in the new year to deal with this matter alone, because in six months, you would agree, we cannot reform the corpus of land law in Trinidad and Tobago; you cannot do that but in six months, we can address this matter.

In the coming days, we intend to have some consultations with the stakeholders, the affected bodies, persons who would have an interest, to get from them what is the best approach. It may well be, and I am suggesting, that we do a subsequent amendment which would state something to the effect of, "Tenants can apply in writing pursuant to our amendment" or if they fail to apply in writing their statutory lease continues unless the landlord communicates otherwise or seeks to terminate. It may well be that we look at something, because the persons we are dealing with may not be the people who will read the newspapers, listen or act on it.

Sometimes you see a newspaper ad and it might be intimidating.

Someone in a small dwelling place somewhere, not aware of their rights, the grandson of somebody—first to begin, I am not sure they are reading this, although it is there for that purpose and we have a duty to do it. When they look at this, the first thing they would think of is that they have to get to the offices of Sen. Al-Rawi and have to pay an exorbitant amount of money for advice. [*Laughter*]

**Sen. Al-Rawi:** Sen. Ramlogan is no longer in practice.

**Hon. Dr. R. Moonilal:** They may well think that it requires a visit to the attorney-at-law and, as you know, Mr. President, they do not go there cheap and it requires money; you pay some money. You have to pay a few hundred dollars well to get help to have this filled out and serve it on the Registrar General, et cetera, et cetera, and we have to guard against that.

**3.45 p.m.**

We have to guard against that because while we may have good intentions, our intentions must synchronize with the character of the constituency we are dealing with, and therefore it may well be that we will have to rethink this to ensure that persons' rights are protected by a further amendment that captures them in the event that they even fail to submit a notice. Please.

**Sen. Al-Rawi:** Thank you hon. Minister for giving way. Just by way of a point of clarification to remind the hon. Minister as he is a member of the legal profession. There is a scale of fees that applies in relation to land transactions. [*Desk thumping*] If he is aware that somebody is charging exorbitant fees for something which is regulated by the scale and land transactions is one of them, he should certainly report those persons to the Law Association.

Secondly, there is constant “picong” on the members of the legal fraternity. May I remind my friend that he is now one of those members and that we should be careful not to frighten people about seeking their rights—about seeking advice in relation to the protection of their rights and to be comforted by the fact that there is a scale of fees that relate and, in fact, that scale of fees is usually discounted, so perhaps the Minister, if he wants to further discount it could also legislate that point in the Act, but certainly there ought not to be unreasonable fees provided.

**Hon. Dr. R. Moonilal:** Mr. President, as said at the outset, I do not want to get into matters when senior counsel opposite is advising. However, the Attorney General indicated to me that your scale may not be relevant to the advice and some members in your profession may or may not abuse that. *[Interruption]*

You are aware of the problems the Law Association finds itself in with regard to others, but that really is a matter I prefer the Attorney General and yourself could discuss compliance with the regulations and compliance, indeed, with the Act concerning the conduct of attorneys-at-law. So I would prefer if the Attorney General reverts to you on that matter.

Mr. President, there are some other related issues that I would just take the opportunity to raise as well. The land registration; it is very valid point and the land registration is not a compulsory regime and that has certain advantages and disadvantages. It is not only an advantage; it may well be a disadvantage as well. The Government of the day will have to address this problem of archaic, obsolete, outdated legislation which, as Sen. Hinds and Sen. Al-Rawi admit, may have been relevant to the time, but as times change and there are various features emerging in that domain, we will

need to respond to it. That is a drawn-out process. That cannot be an overnight process. That requires a longer term approach, it requires consultation, it requires a particular type of technical and legal advice, so that while we embark on that we have an obligation to deal with the matter that we find before us.

The other matter my friend opposite raised concern—well it does not concern the amendment, but you did [*Laughs*] seek to cast the Leader of the Government Benches here, as stumbling on the expiry date, and of course I corrected that already, so I think you are advised better now. However, you raised other matters, need for research and so on, not matters I prefer to respond to, but I could tell you that when we had the opportunity as well as the honour to serve in the Opposition of this country, it was an arrangement between the Parliament and the Office of the Leader of the Opposition, that allowed Opposition Members to access LexisNexis and—what is the name of the other one—West Law. So, we did have opportunities and we did have the opportunity to avail ourselves of that, so I would advise you to speak to the leader of your Bench and the Leader of the Opposition, can work with the Parliament to ensure that the Office of the Leader of the Opposition has access, and that way, Members of your Bench—[*Interruption*] well, Members of your Bench can avail themselves of that type of research.

I am sure other Members may have another opportunity and may have other methodologies available, but for the Opposition, I distinctively recall, it was the Office of the Leader of the Opposition that had access.

Ministries as you know—several Members on this side would be Ministers and would have the opportunity to do research through the Supreme Court and would have ability to do it. We can, incidentally, at the

library. I say this because I have also been for some years here, not only as Leader of Government Business in the House, but also working on several related committees. The Library of the Parliament should have access to LexisNexis and West Law and that is available to all Members, Independent Benches, Opposition Members, Government Members, but I know some Ministries do it through research. However, it is something that you may wish to take up with the Leader of the Opposition and ensure that the Library in the Parliament has that facility for all. The Office of the Leader of the Opposition has an additional facility only for Members of the Opposition. *[Interruption]*

**Sen. Baptiste-Mc Knight:** *[Inaudible]*

**Hon. Dr. R. Moonilal:** That is correct. For the Independent Senators that would be the problem, but if you have the access through the Office of the Leader of the Opposition you will have—*[Interruption]* what you do, after 4.00 p.m., the Office of the Leader of the Opposition will have the access codes and so on and you use it to do your research. I am just explaining how in the past some of us were able to access that. It is something I am sure that we could look at and seek to assist, because as you know there is a serious fee associated with that and I am sure that the Parliament would want to ensure all Members have access, not only Members of the Opposition, but Independent Senators, Government Members and so on.

Mr. President, I would just crave your indulgence since my friend took me away from the Bill with his discussion on standard of debate. I do not want to comment on that. I do not think it is necessary. We should be happy we have a high standard here, I guess.

Mr. President, I just want to raise one matter in closing concerning

housing, and it is for the benefit of those persons involved in the construction sector. For the record I want to make a statement on this. It was raised by Members of the Opposition as well and they had asked me to clarify.

Mr. President, sometime ago the former Prime Minister, on returning to Trinidad and Tobago from a trip—I am not sure where he went, but he returned and made a statement that was interpreted as policy and indicated that in the next cycle of home construction, contractors would be required to place infrastructure underground for telephone, electricity and so on, and that led to a shockwave in the sector. Because, I am informed that the additional cost per unit could range between \$10,000 to as much as \$30,000 per unit with underground infrastructure.

The former Prime Minister returned, and just as I said, he was quite excited by something he saw and announced this. I want to indicate for the record and for person and organizations involved in this sector, that it is not the policy of the current Government to insist upon underground infrastructure. While it is laudable, and there are benefits to be derived from that, if we are going to provide homes for low income persons and make homes affordable, we cannot, at this time, insist that that is a requirement when the cost could raise by \$30,000 in some cases, so it is not our policy and I ask members in the national community and persons with this concern to take note.

Mr. President, I think we have addressed some of the matters Minister Panday raised and contributed and explained a few matters. I would only say in closing that we welcome the views of Senators and for whatever reasons, I think Senators on the Independent Bench did not contribute, it

may well be the organization this afternoon, I am not sure if their views were well delivered by Sen. Al-Rawi, I know he spoke on behalf of Senators on the Back Bench. On some matters I do not know if he spoke on behalf, on all matters but I am sure, Mr. President, we welcome his views and I want to say that—[*Interruption*] well, Sen. Al-Rawi was speaking on their behalf at some time so I am not sure where it began and where it ended.

Mr. President, we have seen over the last few days a new chapter in the history of law making in Trinidad and Tobago. We have seen where both Government and Opposition can come together on critical matters for legislation, particularly with crime and national security. It has happened before, but not with the frequency that we would prefer. So it is a new chapter and last week we had a golden opportunity to cement that new relationship. This afternoon, in that spirit, I want to thank Senators opposite for their support in terms of this measure and to assure that when we embark upon that consultation on this matter the Office of the Leader of the Opposition remains a critical office for us to meet and treat with.

Mr. President, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

*Clauses 1 to 3 ordered to stand part of the Bill.*

*Preamble approved.*

*Senate resumed.*

*Bill reported, without amendment.*

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

*The Senate voted: Ayes 30*

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Karim, Hon. F.

George, Hon. E.

Ramgoolam, Hon. R.N.

Ramnarine, K.

Abdulah, D.

Oudit, Mrs. L.

Moheni, E.

Maharaj, D.

Ali, Dr. A.

Tota-Maharaj, Dr. V.G.

Moore, A.

Beckles-Robinson, Mrs. P.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Ali, B.

Ramkhelawan, S.

Baptiste-Mc Knight, Mrs. C.

Drayton, Mrs. H.

Balgobin, Dr. R.

Prescott SC, E.

Armstrong, Dr. J

Picou, Prof. D.

Anmolsingh-Mahabir, Mrs. P.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**4.00 p.m.**

**EVALUATION OF EFFICIENCY AND EFFECTIVENESS  
(PARLIAMENT)**

[Fourth Day]

*Order read for resuming adjourned debate on question [August 03, 2010]:*

*Be it resolved* that Parliament take steps to evaluate its efficiency and effectiveness;

*And be it further resolved* that arising from the evaluation, Parliament take the necessary action within its control to maximize its efficiency and effectiveness. [*Sen. S. Ramkhelawan*]

*Question again proposed.*

**Mr. President:** Hon. Senators, those who spoke on the last occasions were: on August 3rd, Sen. Subhas Ramkhelawan; he moved the Motion, Sen. The Hon. Emmanuel George. On Tuesday October 12 we had Sen. Penelope Beckles-Robinson, Sen. Corrine Baptiste-McKnight, Sen. The Hon Rudrawatee Nan Ramgoolam, Sen. Terrence Deyalsingh, Sen. Dr. Rolph Balgobin, Sen. Kevin Ramnarine, Sen. Dr. James Armstrong. and on

October 26, we had Sen. Helen Drayton, Sen. The Hon. Fazal Karim, Sen. Elton Prescott SC and Sen. Shamfa Cudjoe. All those wishing to contribute to the debate now may do so.

**Sen. Subhas Ramkhelawan:** Thank you, Mr. President, for giving me this opportunity to respond to many of the comments that have been made in respect of this particular Motion. I am grateful for the participation of many of the Senators in this particular Motion, grateful because the Motion gets to the very heart of the question of the effectiveness of this Parliament. Many Senators have spoken to a number of issues and I hope that in the winding up of this Motion that I can address some of the areas that were raised.

What is clear from the overall contributions is that every single Member of this honourable Senate who rose to participate in the debate was in support of the Motion, un-amended. Every single Member, starting with Hon. Sen. George, who, in his contribution said that the Motion was like knocking on an open door, to quote him; then Sen. Nan Ramgoolam, in her contribution, suggested that the Motion would have unequivocal or full support of the Government, and my honourable colleagues on the Opposition Bench operated and spoke in like manner.

I think this gives cause for us here to suggest to the Government that the most effective way to show support is to ensure that this matter goes to a joint select committee for review, so that matters relating, for example, to the whole question of a legislative agenda; matters relating to the whole question of the effectiveness of committees; matters relating to the need for amendments to Standing Orders, will be reviewed and adjusted and recommended to this honourable Senate, as appropriate. I must say that I did not expect to be winding up this Motion at this time, so forgive me if I

fiddle a bit in order to get to my requisite notes on the matter.

I want to speak on some comments made by other Senators and I want to raise some matters which would have impact on the issue of Standing Orders and the issue of committees. In my notes, I want to refer to one of the matters that keeps cropping up in the committee system that we have at this point in time, and that is, on most occasions in a joint select committee, whereas the Standing Orders speak to not more than six Members from each House, we invariably end up with six Members from each House getting to a position of 12. As I looked at the committee system and its effectiveness, what was very clear was that on many occasions the committees did not have a quorum, because the Standing Orders made provision for the committee itself to set what the quorum should be, and if it is inordinately high, you to get a situation where Members are not present.

A day in the life of a Minister was aptly described by my honourable colleague, Sen. Pennelope Beckles-Robinson, and it is very complicated and busy. A Minister who is an elected representative, forms part of the Executive, but that Minister also has to deal with his constituency, and that Minister is also a Member of Parliament. It is rather a very difficult thing for all of these areas to be very well carried. So that on Thursday he or she would have Cabinet; on Tuesday, maybe, constituency office meetings and then on Friday and any other day, Parliament.

It is similar in scope for my senatorial colleagues who also hold ministerial positions. Therefore, that, in itself, is one aspect of the committee system that creates some deficiency. But the more potent aspect of this is with jurisdictions where the committee system works well, you would have a rather large number of government parliamentarians in the various houses.

That is not the case in our relatively small Parliament, where those persons who are elected, of the 29 of them, I think some 27 would be either Ministers or parliamentary secretaries, being therefore part of the Executive and also having to deal with their constituency and also having to be a Member of the Parliament.

If 27 of those 29 persons have that rather extensive portfolio, then what it would mean, of course, is that whereas in other Parliaments, take for instance the British Parliament where, I believe, you would have to have, per force, something like about 325 or 240 to be in government, and you might have a Cabinet of 23 or 24 or 25, it would mean that you have government MPs able to serve properly and fully on parliamentary committees.

That is not the case here and I want to suggest to the hon. Leader of Government Business in this Senate, that one of the areas that we would have to put our minds to, collectively, is, how can we get this committee system to work in the context of the various challenges and limitations that exist? Or is there something else that needs to be put in place for the committee system to work? Because what is clear is that the committee system provides an excellent avenue for scrutinization. So we have the Public Accounts Committee; we have the Public Accounts (Enterprises) Committee; all of these are committees that are meant to provide some level of oversight. But when on these various committees you have Government Ministers, it reminds me of the calypso by Spoiler: “Magistrate try themselves”—himself to himself, where the magistrate charged himself for speeding and the magistrate had to preside on the matter and the magistrate charged himself for contempt of court; himself to himself.

I know that some of those who boast to be very young, even the

Attorney General himself; it may have been well before his time that this calypso was sung and enjoyed by many of us. I see the hon. Minister of National Security smiling. He must have heard of it and it reveals his age.

So how can we be effective in the committee system? It is a question that we have to address and unless we address it frontally and properly, we will continue to fail in terms of the effectiveness of the committee system that we have embraced, at least over the past 10 years or so. It is a vexatious question, because the answer is not simple. Therefore, we have to put our minds to the question of the committee system.

Before I go forward, let me go back, because the question of legislative agenda is like a stuck record; it keeps coming back to us over and over and over again, not only in this Motion and the debate on this Motion, but also in several other debates on other pieces of legislation that have cropped up.

#### **4.15 p.m.**

Mr. President, in his budget presentation, the hon. Minister of Finance revealed with regard to legislative agenda by so many of the other areas—and I remember him saying well, well “done”. But “done” does not mean that there is an agreement only to have a legislative agenda. “Done” means more than that in any management language. It means that a decision has been taken, properly executed and implemented, and the decision has been properly communicated to all of those who participate or who are subject to that decision. Therefore, by that very definition, I can say with a high degree of confidence, that legislative agenda, not done.

I await and I look forward to the time when the hon. Attorney General will bring a legislative agenda to this Senate. In that context, I want to quote

from a learned commentator and Dean of the Faculty of Social Sciences, Dr. Hamid Ghany, in an article in the *Guardian Newspaper* of October 24, 2010 where he speaks to the question of the disuse of establishing a template of parliamentary agenda at the beginning of a term, and I quote:

“In Trinidad and Tobago, the Throne Speech”—which is the initial speech given by the Head of State equivalent—“as it has been called, has come to be regarded as a colonial anachronism and after the 1970 uprising it was used only in 1971 and not for any of the remaining sessions of that Parliament which stood dissolved in 1976.”

It brings me to recollect another well-known song/calypso. I think it was the late Andre Tanker, “Bring back de ol’ times days and bring back those ol’ time ways”; “if they work”. That is my addition, “if they work”. But what we have found in his piece is that successive Presidents have used the occasion of the State Opening of Parliament to bring greetings or to make their own pronouncements about national issues, that the Prime Minister no longer writes a speech for the Head of State and there is no reason or there is no legislative agenda. I want to bring to the attention of all of us in this honourable Senate that there is need for us to put in place a legislative agenda that would create some sort of rhyme and reason, and I want to reiterate that it would allow all our citizens if there is an agenda, to be able to contribute more fulsomely to the debate, to representation with their various representatives, elected or otherwise, elected or selected, but it then brings this question of participation to the fore.

What we have seen today and what we have seen over the past couple of weeks is a situation that cannot be allowed to continue where there is no rhyme and no rhythm, and it appears to the national community that we do

not want it to become an entrenched perception. It appears to the national community that we are in a state of almost crisis as far as legislation is concerned, so we bring this piece of legislation, today on land tenure. The last time when it was Private Members' Day, we brought another piece of legislation that had to be completed, critically, where time was of the essence and time was running out, and this argues very strongly for a legislative agenda. Not so much—and I want to stress—to give comfort and succour to the Independent Benches or even to the Opposition Bench—maybe even less so—but to ensure that participation from the national community, interest groups and citizens will take place in a manner that would give them sufficient time to reflect on how legislation coming to this Parliament and this Senate will affect them. I think enough said on the legislative agenda.

Mr. President, another matter which was mentioned in passing, but which has addressed my mind for some time—because it was raised in the Ninth Parliament—is the role of a parliamentarian, and in particular, the role of an Independent Senator. I think it can be aptly couched in the phrase “to thwart or not to thwart”, and I want to put it on the record today that Independent Senators cannot be, ought not to be, and should never be, rubber stamps for the actions of the Executive.

Parliamentarians as a whole, except for Government parliamentarians, are not and should not be under the thumb of the Executive. Rather, it is the other way around that the Executive reports to the Parliament, and when the Parliament starts to see its role as “thwarting” or not “thwarting” the Government, it loses its sense of what its role is. So, if there is need to thwart, then by all means thwart on the basis that it is sometimes the case

that the interest of the people supersedes the interest of the Government of the day, or may not be in sync with. I just wanted to put that on the record, just in case—and I am sure it is not the case—our new bright, learned Senators on the Independent Bench were not fully au courant with that role, just in case.

I want to turn to other questions that have cropped up, and that is, that a joint select committee can address and should address. Mr. President, very often a question of speaking time has been raised by my hon. colleagues on the Government side and on the Opposition Benches. That question has been raised and you get virtually the same sort of position from the Government—whoever is sitting on that side—and the same sort of position from the Opposition—whoever sitting on this side—and that question addresses the speaking time in the Standing Orders—in the Senate, 45 minutes and a further 15 minutes. There has been much discussion and debate as to whether this speaking time should be reduced. Usually, you get from the Government Benches that the Opposition is wasting time and all of them should not be allowed to speak, and if they are allowed to speak they should have 15 minutes, 20 minutes or half an hour, as the case maybe. I have often considered this.

Yes, it is true that there are times when contributions, not only from Government Benches, but from all sides can be rather torturous, long winded. It is true, but if we have to preserve freedom of speech, freedom of expression, the full expression of thoughts and ideas, therefore, it is not in the interest of the people to truncate. But I would ask that if a joint select committee is established, that that matter of adjustment of times be less of an issue and that there be room in the Senate at least, for us to discuss issues

such as a block of time to address an issue and then have the allocation of time to speak be considered; not in the Standing Orders, but out of compromise and agreement because it then truncates the expression of free speech that we all aspire to and adhere to, and support fully in this particular Parliament.

There are other questions in the Standing Orders, Mr. President, that were touched on and I am coming back to the matter of parliamentary committees. In our Standing Orders under section 72, there is provision—apart from the other well set committees, sessional and so on—for joint parliamentary committees and this is what the section says:

“(1) At the commencement of each Parliament, the Senate (with the concurrence of the House...) shall appoint the following Joint Parliamentary Committees:

(a) Banking, Finance and Estimates;...”

I wonder if we had as such a committee, whether some debacles that we have seen recently in the banking and finance sector would have gotten to the stage that they have now gotten to.

I ask the question of my hon. colleagues: why we do not have—it is in the Standing Orders—a banking and finance and estimates committee as a joint parliament committee? I continue:

- “(b) External Affairs and International Trade;
- (c) Labour, Industry and Commerce;
- (d) Food Security and Agricultural Development;
- (e) Constitutional and Legal Affairs;
- (f) Education, Health and Social Services;”

From my learned colleague from the other side —

“(g) Tertiary Education, Research, Science and Technology.”

So, are we adhering to the Standing Orders that we ourselves, our predecessors, have put in place?

**4.30 p.m.**

I think I would have mentioned, Mr. President, that we had a revision of the Standing Orders in 1989 and a subsequent revision in 2002. It seems timely that, if it is a 10- or 11-year interval, we should look very closely at what our Standing Orders provide and allow for.

**Mr. President:** Hon. Senators, it is now 4.30 p.m. Instead of taking the tea break, my proposal is that we allow Sen. Ramkhelawan to wind up his contribution, which will end at 5.03 p.m. by my estimation, if the Senate is in favour of that. I take it, Sen. Ramkhelawan, that you can continue. [*Desk thumping*]

**Sen. S. Ramkhelawan:** I think that in the debate the matter of question time was raised. This matter of questions to Ministers continues to be a rather sore point. You may recall that in the last Parliament when there was a rather long list of questions, how long it took, in many instances, for questions to be answered. However, the particular matter which I would like to bring to the attention of any joint select committee were it to be established is: in the last Parliament it was made clear by the then President that he had no power to instruct a Minister to answer any questions in any particular time frame. I feel that at this point in time, when we are a society in search of transparency, disclosure and accountability, we have to examine where the President can have the authority to require that questions be answered.

Probably one of the more famous issues in the last Parliament—and it

was mentioned before—was a situation where some \$45 million worth of scholarships were given out and the question was asked repeatedly who they were given to and under what authority. The answer, of course, was not forthcoming. It was suggested that it was taking time to put the information together and so on and, lo and behold, through the Freedom of Information Act, information was made public even though that question was raised many times in this Senate and deferred. These are matters that we in the Parliament need to address and correct. I think the role of a joint select committee would address many of these areas.

The question of negative resolution was raised by my learned colleague, Sen. Drayton, and it was also addressed by Sen. Beckles-Robinson. The issue at hand was how and under what conditions the negative resolution should be utilized.

We have a committee in the Standing Orders that looks after this matter. I think it is the Statutory Instruments Committee. The question of the effectiveness in the oversight of that committee, we need as a Parliament to look very closely at that area to determine whether this matter of negative resolution is being dealt with.

There is the feeling by many that negative resolution is utilized almost like a thief in the night to ambush and sometimes to hijack the highest traditions of parliamentary oversight. I therefore think it is something that I should raise with my colleagues in this Senate; that we have to look at it hopefully in the utilization of a joint select committee. I stress this matter of a joint select committee because I do not want, and I do not think any of my honourable colleagues would want that we have spent so much time and energy making such valuable contributions aimed at improving the

effectiveness of the Parliament and nothing is done thereafter.

That is my concern and I have great confidence that we will get a joint select committee because I think, apart from our colleagues on the Opposition Bench and my own colleagues on the Independent Bench, those on the Government Benches have expressed quite clearly and explicitly the need for a better working and functioning Parliament, not only in terms of the hardware, which is how well the House is painted, how many offices in which we have to sit and have meetings and so on; but equally and more importantly the software, which is how effective we are in delivering what we are required to deliver in the interest of the people of this country. I have no doubt that we will move expeditiously to a separate joint select committee to evaluate the effectiveness.

Sen. The Hon. Karim spoke to several matters, some of which I do not want to repeat. He spoke to the question of matters such as the recall of Members of Parliament and I believe it is two terms for a Prime Minister. I do not wish to address that in this particular Motion. I think a motion is forthcoming on the issue of constitutional reform and they would be better placed and addressed in good time when that particular motion sees the light of day in the Senate. I believe it is the next motion for Private Members' Day that will come to the Senate.

The Minister did speak on the question of laptops and e-Parliament. I did not quite follow, not being a technology person. Matters of medallion, I think he spoke to. I think that everyone here would be prepared to review and support technology which would improve our effectiveness, whether it falls to the matter of accommodation at the Parliament, on the hardware side, or the effectiveness of Parliament on the software side. It is a matter we will

all want to address and to come up with, not necessarily the best, but the best fit for our own Parliament in terms of ensuring and promoting our effectiveness.

Sen. Prescott SC spoke to the role of the Executive and Parliament and I think that the separate role is well understood even though sometimes they do appear to be totally joined at the hip and sometimes almost unrecognizable; but this is a separation of the State.

Some of my other learned colleagues in this Senate did mention some of the philosophers of old—Montesquieu, on the separation of powers. It was only recently in the British Parliament where there was a situation where the Chancellor was the head of the Judiciary, a Member of the Legislature and was on the Executive. That was not a clinical case for separation of powers; rather a fusion of powers. It was only until the Supreme Court legislation of 2009 in the British Parliament that there was some separation starting to take place. We are fortunate that we already have that clear separation of the Judiciary and the Legislature.

Sen. Cudjoe spoke to the question of parliamentary accommodation and the use of technology and we have covered those areas fulsomely. So all that is left is for me to thank my hon. colleagues in this Senate for the valuable contributions made and to seek to ensure that those contributions now translate into effective action so that we as a Parliament and a Senate can be proud that we have moved the matter forward; that we have been able, after describing some of our inefficiencies and areas of ineffectiveness, that if we cannot address all, we will move less slowly in seeking to address and to correct some of the deficiencies.

If only for that one reason, if it is the only reason that we are here, to

serve and protect the interests of all our citizens. Whatever the roles are, when you speak to Parliament about scrutinization and when you speak to representation, legislation and making good law, Sen. Hinds, that we move in that direction and not belabour the point anymore. We must ensure:

- (1) that Parliament take steps to evaluate its efficiency and effectiveness; and
- (2) arising from that evaluation, Parliament take the necessary action within its control to maximize its efficiency and effectiveness.

I call on the Government and on everyone here and in the other place to ensure that we put in place a joint select committee to address these matters and come up with solutions and increased efficiencies and effectiveness for the betterment of all our citizens.

Mr. President, I beg to move.

**4.45 p.m.**

**Mr. President:** Senator, I was not sure if you were seeking to make an amendment to your motion there, or should I take it as standing?

*Question put and agreed to.*

*Resolved:*

That Parliament take steps to evaluate its efficiency and effectiveness;

*Further resolved:*

That arising from the evaluation, Parliament take the necessary action within its control to maximize its efficiency and effectiveness.

**Sen. Panday:** Mr. President, the Government has no objection in supporting this Motion and referring the recommendation to a joint select committee.

**Mr. Hinds:** It is passed. That is good of you.

## ADJOURNMENT

**The Minister in the Ministry of National Security (Sen. Subhas Panday):** Mr. President, we truncated this debate today in order to clear the Senate for tomorrow morning when we shall meet at 10.30 a.m. to discuss the Interception of Communications Bill, 2010. Mr. President, this Bill was circulated earlier today; a courtesy copy has been circulated. If there are any other Members who require any further copies, we will make it available to them. Mr. President, we hope that we will take this matter through all its stages tomorrow, at 10.30 a.m.

**Sen. Deyalsingh:** What about the Finance Bill?

**Sen. the Hon. S. Panday:** The Finance Bill will be debated on Tuesday, because tomorrow we would like to complete this Bill. But if Senators are so desirous, if the Interception of Communications Bill is completed early tomorrow, if you wish, we may embark upon the Finance Bill.

Thank you.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 4.48 p.m.*