

*Leave of Absence*

*Tuesday, October 1, 1991*

**SENATE**

*Tuesday, October 1, 1991*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave to Sen. Robert Amar from sittings of the Senate during the period October 1 to November 13, 1991.

**CARICOM ENTERPRISES BILL**

Bill to give effect to the Agreement for the establishment of a Regime for CARICOM Enterprises; brought from the House of Representatives [*The Minister of Industry, Enterprise and Tourism*]; read the first time.

**PAPERS LAID**

1. Report of the Auditor General on the accounts of Trinidad and Tobago (BWIA International) Airways Corporation for the year ended December 21, 1987. [*Sen. Alloy Lequay*]
2. Loan Agreement (education and Training for Youth Employment Project) between Republic of Trinidad and Tobago and International Bank for Reconstruction and Development. [*Sen. A. Lequay*]

**ORDER OF BUSINESS**

**Sen. Alloy Lequay:** Mr. President, will you want to take the second reading of the private bill on page 5, first?

*Assent indicated.*

**SECONDARY SCHOOLS SANSKRITIK SANGAM (INC'N) BILL**

**Sen. Fyard Hosein:** Mr. President, I beg to move that a bill for the incorporation of the Secondary Schools Sanskritik Sangam of Trinidad and Tobago and for matters incidental thereto, be now read a second time.

*Seconded by Sen. Alloy Lequay.*

*Question proposed.*

*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 9 ordered to stand part of the bill.*

*Preamble ordered to stand part of the bill.*

*Question put and agreed, That the bill be reported to the Senate.*

*Senate resumed.*

*Question put and agreed to, That the bill be now read the third time.*

*Bill accordingly read the third time and passed.*

#### **ORDER OF BUSINESS**

**Sen. Alloy Lequay:** Mr. President, I suggest that we continue with the committee stage of the Children (Amdt.) Bill before dealing with the second reading of the other bills.

*Assent indicated.*

**1.40 p.m.**

#### **CHILDREN (AMDT.) BILL**

[FOURTH DAY]

*The committee of the whole Senate resumed its deliberations on the bill.*

[Chairman: Mr. Emmanuel Carter]

**Mr. Chairman:** Members of the committee, just to make sure everybody understands exactly where we were at the last sitting, we had deferred further consideration of clause 4 and we are on clause 5. I think the discussion was whether we should continue with 12A or abandon it as suggested by Sen. Furness-Smith and just amend section 6.

**Dr. Hosein:** Mr. Chairman, I was under the impression that on the last day we had agreed that the drafting as done by the Government side was what we would accept in terms of style and amendment to proposed section 12A. We have attempted to incorporate the concepts brought forward by Sen. Furness-Smith, and to a lesser extent Sen. Alexander but drafted it in the way we were proceeding. I was under the impression that was agreed upon. Sen. Furness-Smith appeared to have continued redrafting in his own style and that may complicate things a little bit.

Secondly, there are points raised in some of Sen. Furness-Smith's concepts, especially in his new draft, which he has just circulated, which we have some difficulty with because they do not achieve some of the objectives we had agreed upon or they so constrain and confine the powers of the magistrate that we would find them not suitable.

I do not know whether we should now proceed to argue the particular drafts sentence by sentence and word for word in which case we are in for quite a few long days. What I want to propose, Mr. Chairman, if I may to the honourable Senate, is that we look at the principles that remain contentious and if we can agree on them, the Government's side will then withdraw, giving the drafters an opportunity with the advice of Sen. Furness-Smith and anyone else who may wish to contribute to that part of the discussion in private, an opportunity to finalize the draft. Because I suspect we could find ourselves in a lengthy exercise if we attempt to finalize through the committee process, an exact draft today.

**Sen. Lequay:** Mr. Chairman, I am not sure exactly where we are. We now have in front of us, three sets of amendments by Sen. Furness-Smith and I want first to establish that he is withdrawing those that were before us, and therefore we are now dealing with a consolidated set which is now being circulated. I have with me three sets of amendments from Sen. Furness-Smith and I find it a little difficult because they all seem to deal with the same clauses.

**Mr. Chairman:** I was just going back to what on we had done last week and I am now bringing to the attention of Members that two new sets of amendments have been circulated today: one by the Minister and another by Sen. Furness-Smith.

I take it that all Senators now have before them, a first set of amendments circulated today in the name of Sen. Furness-Smith and also another two-page document containing amendments proposed by the Minister also circulated today. I take it that the previous amendments circulated, the one dealing with the preamble is still before us. That one deals with the special majority. I take it that the one Sen. Furness-Smith had circulated at the previous meeting can be replaced by the one which he has now.

**Sen. Furness-Smith:** I redrafted them in deference to the hon. Minister's desire to have a section 12A rather than to incorporate them in section 15.

**Mr. Chairman:** On the list of amendments that had been circulated in the name of the Minister at the previous sitting on September 17, that also has been superceded by the present list of amendments circulated today in the name of the Minister. So what we are dealing with is the new set of amendments circulated today as redrafted by Sen. Furness-Smith, and a set redrafted in the name of the Minister. The only amendments we have from the previous set of amendments, would be the new preamble which we intend to put. I do not know if you wish to go back to clause 4 today. I think we could commence with clause 4 as we had deferred that and then go on to the other part.

*Clause 4 recommitted.*

**Dr. Hosein:** Mr. Chairman, as I recall the discussion on clause 4, the Senate had agreed that there was need to create a linkage between sections 11 and 12. We are proposing what is before us on the first page of the amendment circulated by myself, which is to amend clause 4 of the present bill, which is, "Section 11 of the Act is amended (1)", and we now add a (2) by adding a new subsection at the end thereof:

“(2) Where a child is taken to a place of safety under section (1) the Magistrate may make an order under this section or an order referred to in section 12A, as he sees fit.”

I do not know if Members are comfortable with it but this is the way we propose it be done.

**Sen. Furness-Smith:** I have not heard a word of what anybody has said this afternoon. This thing is not working and something seems to be wrong with the Minister's microphone. So I am having difficulty in participating. Quite frankly, I do not know how to suggest that we should handle this matter.

**1.50 p.m.**

The best way to handle it is for the hon. Minister to withdraw his bill—which he intends to do anyway—and then let us sit with his advisors, and himself, and try to sort out these drafting questions, at some early date, rather than spend a rather uncomfortable afternoon trying to reach agreement across the floor like this. It is not the way to do drafting work.

**Dr. Hosein:** Mr. Chairman, I had suggested just as much, except that my understanding of the proposal from the Leader of Government Business was that

we should settle all matters of principle, so that when the finalized draft is returned here, we may avoid debate.

The draft submitted by Sen. Furness-Smith continues to raise matters of principle, to which we are not willing to agree. It infringes on the policy—which again was a matter I thought we had finally agreed upon. To go into an exercise of pointing out to all hon. Members exactly why a particular wording would lead to a situation that infringes the policy, may require that we spend some time here, which I am agreeing with Sen. Furness-Smith, we ought to avoid.

What might be useful for us to complete this afternoon, is the matters of principle. If we have to quibble over the draft, we can do that privately, but I think we ought—in fairness to all hon. Members—to settle the points of principle. A good example is the question of including “impairment of physical or mental health or development” under the definition of “harm”. It is either we do that or we do not, and I think we can settle a matter like that. There are one or two other points, and this is how I propose we should proceed and leave the detailed drafting to another forum.

**Sen. Mark:** Mr. Chairman, I just want to support the view expressed by Sen. Furness-Smith, that the honourable thing for the Minister to do is to withdraw this particular matter and spend a few days or weeks getting this thing back in order, because we are trying to set the principles and then trying to avoid, when the bill comes, any debate. You cannot guarantee that. You would like that, but once the bill comes here, and it is for second reading, you cannot stop Members of Parliament from saying their piece. So we might be wasting time on that matter right now and I suggest, humbly, that the Minister withdraws this Bill; because you cannot tell me I cannot talk when the bill comes back.

**Dr. Hosein:** Mr. Chairman, I have no difficulty with that myself, but I think hon. Members have exhausted their views on the matter. It is the question of getting something that is acceptable which can stand up to legal scrutiny, which is a technical job. The only matter we need to sort out is any matter of principle.

**Sen. Furness-Smith:** If we had the questions of principle clearly defined, which the hon. Minister wants to discuss, personally, I would be happy to hear the views of Members on them. I do not think there is any procedure we can adopt this afternoon, which would avoid, necessarily, having debate the next time it comes, because you see, the next time it comes, there will be the ultimate sanction

*Children (Amdt.) Bill*  
[SEN. FURNESS-SMITH]

*Tuesday, October 1, 1991*

of a three-fifths majority, which we do not have in committee. So, I do not think we can really agree on anything this afternoon.

Personally, in light of possible discussions later, privately with the Minister and his advisors it would certainly be helpful if we had the views of the Senate on these points of principle. I am not quite clear what they are because the points of principle that I have seen, are intimately connected with the drafting and the practical consequences of the drafting; matters which have been, up to now, entirely ignored. They are not so much matters of principle as matters of practice, and matters of drafting which need to be addressed. So, if there is a point of principle, I would be happy to hear what Members feel about it.

**Dr. Hosein:** Mr. Chairman, I want to disagree strongly with Sen. Furness-Smith, that points of drafting have been ignored. In fact, we have paid a lot of attention to them. I think in the end, what happened is that we disagreed fundamentally with Sen. Furness-Smith on a number of things he has put forward. Secondly, often, it would appear to us—if I might use that phrase—that Sen. Furness-Smith is not quite aware of all the constraints put upon principle, when the bill is drafted the way he proposes. I mean, we would like to point this out to him in the kind of forum to sort that matter out, but it is not fair to say that we have not paid attention—to use his phrase—“to drafting points” and the consequences thereof. In fact, we have been at pains—it is just that we may disagree fundamentally on some things.

Just to sum up as briefly as I can, to attempt to draft the bill the way Sen. Furness-Smith proposes will constrain the powers of the court in ways that we feel we definitely would not want, and it defeats, in a few instances, the purpose of the bill. The minute we reach that stage, then we have a problem. Now, if Sen. Furness-Smith does not appreciate that this is so, as I said, maybe that is the kind of matter we could sort out in detailed discussions.

**Sen. Alexander:** Could the Minister please point out those amendments of Sen. Furness-Smith's which would place restraints on a magistrate?

**Dr. Hosein:** I thought that this is what we were hoping to avoid. This kind of discussion.

**Sen. Alexander:** Because I do not see any.

**Dr. Hosein:** Well, I suppose human beings are not all seeing, Mr. Chairman, and I am wondering whether it is worth it to pursue that kind of discussion at this

stage. You see, as I understand, we agreed last week that the court requires certain powers; the difficulty was that, as proposed by Sen. Furness-Smith, to give the court these powers appropriately, required certain kinds of amendments. We felt otherwise. Now, he has redrafted these and what we want the opportunity to point out to him is, to do it that way will, in fact, constrain the court in ways that leaves one to wonder whether it does not defeat the purpose of the bill, and the intent of the bill, which I thought we had agreed upon.

**2.00 p.m.**

**Sen. Alexander:** I just want to draw your attention to one situation. The proposed amendment to section 12A where the Minister wishes to insert after the word "satisfied" the words "after giving the parent or guardian an opportunity to be heard where practicable." I am sure that is one of the matters to which the Minister is referring. I have never seen that in any drafting in any piece of legislation, where you are going before a magistrate where practicable. Who decides what is practicable and what is not practicable, by giving the parent or a guardian of a child an opportunity to be heard on an order? What does where "practicable mean"? You serve him and as we know it ordinarily, if he cannot be found he cannot be found. Why do you not put it in language which we know and understand?

**Sen. Tiwary:** What I will say is that perhaps we can certainly agree with that, but when you say that you have never seen it, "where practicable"; we are dealing with giving a court the power to make a care order in circumstances where a criminal offence has not been committed in relation to that child. We are really extending the powers of the courts.

At present the law is that where a criminal offence has been committed in relation to a child, the court can make a care order. The purpose of this bill, as I understand it, is to extend the powers of the court, whether it be the Magistrate's Court or the High Court. We want to make care orders in other circumstances than where there are criminal offences. This is why we are increasing the power of the court, not limiting it to only circumstances where a criminal offence has been committed.

**Sen. Furness-Smith:** You are giving new powers and jurisdiction to the magistrate. That is what you are doing. That is something quite different from extending anything.

**Sen. Alexander:** Under the present legislation, where a crime is committed, the views of the parents must be taken into consideration, except where that parent cannot be found or is in prison. Why do you not keep it that way? Why do you want to have “where practicable”?

**Sen. Tiwary:** To limit it to say that the parent or guardian must be given an opportunity to be heard—suppose that parent or guardian is in prison or abroad or in hospital, as the case may be, we have to cater for that and use the appropriate language.

**Sen. Alexander:** Sen. Furness-Smith's draft has taken that into consideration.

**Sen. Furness-Smith:** Excuse me, I am getting a little bit fed up with this because one is told, the Minister's advisors or himself do not understand the principles which I am on, and I certainly do not understand the principles which they are on. I produce drafts and they produce drafts.

We came up last week and we found that contrary to the advice he received, he has to mention the Constitution. I do not want to rub that in, but that is something which is highly embarrassing for the Minister and all of us.

I respectfully suggest that the points which I have raised are equally important. If there is something in the language which could preserve some point, sure, amend it. I am not wedded to my language. I do not purport to be an expert even in drafting but we have to get the thing right. We cannot just ignore the point which Sen. Alexander is making and put in language like “where practicable”, because that is not acceptable. No lawyer in the world would accept that language.

**Sen. Tiwary:** May I just say that I do not think we should be fighting across the floor over language. The Minister started by saying it may be more appropriate for all the parties concerned to have a discussion as to what is appropriate language and leave it to the expert to draft it. This is precisely why, as I understood it, the Minister said it really does not make sense for us to go through one by one each of the items drafted in that fashion.

When Sen. Alexander drew reference to one particular instance, I was endeavouring to show that there is another school of thought and this is how the Government side feels about it.

**Sen. Alexander:** I was wondering whether that was a point of principle or drafting.



**Dr. Hosein:** That is just the point. It is a drafting point and I do not know whether Sen. Furness-Smith or Sen. Alexander, for that matter, wants to assure this House that in no jurisdiction in the Commonwealth is that term used, and whether lawyers there have a difficulty in understanding it.

The point about that is that it is a drafting point. I would prefer with the greatest respect to both hon. Senators, to leave it to the drafters. To come here and assure this Senate that nowhere in the Commonwealth the term "is practicable" is used, I do not know if they are prepared to say that. I am sure that the lawyers in those jurisdictions understand and there is jurisprudence in the matter. I do not see why suddenly that is unacceptable. I just cannot accept that.

**Sen. Furness-Smith:** For the reasons which Sen. Alexander pointed out it must be unacceptable. If I am told that in some part of the Commonwealth this is a precedent which is used and not the the English 1989 Act which was produced to us last week, but that somewhere else in the Commonwealth "where ever practicable" is used then we will look at it. We want to look at the whole thing and it would be nice to know where the draft comes from. That is what we would like to know.

Two months ago we were struggling with the Domestic Violence Bill and we were told that it certainly did not come from England, that it came from Australia; we are now told that this bill comes from the English provisions, so where do we stand?

**Dr. Hosein:** No, no. We never said that. In the first place, I cannot see the relevance of where which section of the bill came from. Surely, to make that an issue is really to go beyond the bounds of what is reasonable in this discussion. It is a technical point and Sen. Furness-Smith is insisting that he is right and I do not want to insist that he is wrong.

**Sen. Furness-Smith:** I am not insisting that I am right. What I know is that "wherever practicable" is totally wrong. That is what Sen. Alexander and I are insisting on. We are not saying that we are necessarily right. There could be dozens of different ways of putting it. We want one in this bill which is sensible and acceptable and not something which is patently wrong like the views of the Constitution which were patently wrong.

**Sen. Spence:** It seems to me that really we cannot avoid having select committees. We tried to do it and each time we run into difficulty. I believe the only thing to do now is to withdraw the bill and when it comes back, send it to a

select committee. Clearly, the procedures that we are trying to deliberate upon as a whole could be done in select committee with the necessary lawyers and the drafting people. That is what select committees are for. Why are we trying to run a system in a way that it obviously cannot be run when we have a procedure for running it properly?

**Sen. Furness-Smith:** I understood that the hon. Minister felt there were some points of principle which he would like to raise which he and I apparently have difference with. Sen. Alexander asked him which are the points of principle, this one for instance and we did not get any reply. We do not know what the points of principle are. Sen. Alexander cannot see any points of principle in my re-draft but maybe there are some, maybe there is something important which I have overlooked.

**Sen. Lequay:** Just give me a few minutes to discuss a procedural matter with the Minister quite apart from the debate because I am taking the point made by Sen. Spence but it does not seem to me that this could now go to a select committee. If we had agreed last week that this bill needs to go back to the House under "Introduction of Bills". it does not seem to me that going to a select committee has any relevance. I just want a few minutes to discuss the procedures.

**2.10 p.m.**

Mr. Chairman, if Sen. Spence would give me his attention, he was suggesting a select committee, but because of the procedures we discussed last week, having to reintroduce the bill in the other place with a preamble which needs to take the bill through all its stages, it is not proper for us to go before a select committee with this bill. Therefore, I want to recommend to Members that they look at Standing Order 61—Withdrawal of Bills.

What we are proposing is that we withdraw the bill as it stands. Discussions will be held behind the President's Chair with the hon. Members opposite who seem to have a different point of view from ours and then a new bill will go to the other place under "Introduction of Bills" and will be taken through the various stages and passed by a three-fifths majority and that bill will then come back to us. At that stage we will want to move—I am not asking for an agreement now; I am just indicating the procedure I would want to take then—to take it through all its stages in the same day. Now that does not preclude having a debate. We can have a debate but I merely want to point out that having sort of crystallized our thoughts on the points behind the President's Chair and the bill goes to the other place there will not be need for too much of a debate.

There is another point that has just been raised that you might consider—that we bring the new bill back here first, because it is our amendments that will be addressed in the bill—before we send it to the other place. We can consider those procedures. In any case, nothing will happen for the next two weeks.

**Sen. Spence:** Mr. Chairman, I was fully aware of the circumstances which Sen. Lequay outlined but my suggestion was that, indeed, it will be withdrawn now and that when it comes back, the new bill be sent to a select committee. If in the meanwhile, the bill has been so amended or altered or restructured or redrafted that it is not necessary, all well and good, but I do not really feel that it concerns what discussions go on behind the President's Chair. That, in a sense, is not my business. What I think should happen is that the bill should be withdrawn, a new bill should be introduced, if it is an amended bill by whatever discussion or process takes place, fine. If it comes back and it still needs to go to a select committee, then, in my opinion, it should go and we should not have this sort of discussion here in a committee as a whole. That is all I am saying.

**Dr. Hosein:** I think all hon. Members are aware of the history of select committees in relation to the time it takes. Secondly, we are going to have some difficulty, if it is not completed before the life of this Parliament is up; there are consequences to the bill. I want at this stage to say that the Government will be loathe to agree to even the consideration of a select committee. I do not think we need to consider it now but I want to point out to Sen. Spence the difficulties involved in doing that.

**Sen. Spence:** It need not be so. The select committee can take one day. It is a question of how you arrange your affairs. It is not up to the Cabinet committee as a whole to have those discussions. These lawyers who are expert in the field can sit tomorrow, Wednesday or whatever time after the first reading, and have their discussion and come back with the proper thing, but it is not practical to do it in this sort of circumstance. People's tempers fly off the handle and you do not get good legislation.

**Mr. Chairman:** The point is well taken. Let me assure the Minister that the Senate does not have to agree at this stage to any suggestion or proposal to commit itself to carrying the bill to a committee. When that time comes, a decision will be made. What we are trying to do now is to get the bill withdrawn. Will somebody simply ask leave of the Senate to have this bill withdrawn? In case there is any doubt, Members will realize that Standing Order 62 says:

*Children (Amdt.) Bill*  
[MR. PRESIDENT]

*Tuesday, October 1, 1991*

"Once the second reading of any bill has been agreed to or negatived, no question shall be proposed during the same Session for the second reading of any other Bill containing substantially the same provisions."

But rules and regulations are never meant to be a deterrent to common sense. If this is the sort of procedure the Senate wants to adopt to give proper effect to the legislation, I think there will be unanimous agreement to seek the suspension of this particular provision in this case so that the new bill can be introduced. We will do that when the new bill is ready.

*Senate resumed.*

**The Minister of Social Development and Family Services (Dr. the Hon. Emanuel Hosein):** Mr. President, I beg to move that the bill before us be now withdrawn. I seek the leave of yourself and the Senate to do so.

*Question put and agreed to.*

*Bill accordingly withdrawn.*

**2.20 pm:** *Sitting suspended.*

**2.50 pm:** *Sitting resumed.*

**RENT RESTRICTION  
(RE-ENACTMENT AND VALIDATION) BILL**

*Order for second reading read.*

**The Attorney General (Hon. Anthony Smart):** Mr. President, I wish to apologize to the Senate for holding it up for so long. I asked for a couple of minutes, but I now find I was a little long. I am sure Senators will understand that sometimes one has to use one's time as best as one can.

As you know, this bill has been on the Order Paper for some time, and I have been waiting for about three weeks or so to pilot it. I beg to move, that the bill to re-enact the Rent Restriction Act, Chap. 59:50 and to validate things done hereunder be read a second time.

The Rent Restriction Act was first enacted and came into force in the year 1941. The purpose of the Act, then, until it lapsed in February, 1990, was to regulate control of the rents of premises to which the Act applies. For that purpose, rent boards were established under the said Act.

When the Act first came into being in 1941, it was during the Second World War. It was necessary then to regulate and control rents which were, at that time, escalating. At that time, the Act applied to all building land, dwelling houses and commercial properties. But there was a provision in the Act to provide for the exclusion of certain premises from the provisions of the Act, from time to time. Over the years, certain exclusion orders were made by the President or his predecessor in title which was the Governor General, and before that the Governor, to exclude certain premises, and in most cases where the standard rent was above a certain sum.

Now, under the Act, the standard rent, in respect of premises, is defined as that rent which is fixed by the board established under the Act, or until the rent is so fixed by the board, the rent at which the premises were first let on the prescribed day and that prescribed day has changed from time to time in the Act until I think it is now February 24, 1954. If the premises were not so let on that day, the standard rent would be the rent at which the premises were first let. The premises to which this Act applies are called "protected premises", "protected tenancies". There are restrictions placed on the right of the landlord to recover from possession of premises, that is, if the premises are protected under the Act.

Mr. President, it is an extremely difficult and complex piece of legislation, and one which I do not think many practitioners have had a grasp of over the years. I remember when I was a practitioner as a conveyancer, we found that it was mainly conveyancers who would have to deal with the whole question of rents and protected tenancies in the courts. But what I am intending to do is just to say as simply as possible what this Act is all about; just giving the bare outlines.

The long and short of it is, once the standard rent of premises is below a certain figure, an amount at a certain time, those premises become protected under the Act and the landlord is not easily able to get possession of these premises, even though he has given the required notice. Once premises are protected, even though the expiry date of a notice to quit has arrived, the tenant still has the right under the law to remain on the premises under what is called a "statutory tenancy" under certain conditions. For instance, if the premises are protected and the landlord wants possession of his premises, the landlord would have to prove to the court that he requires these premises for his own personal use; or he must show that the premises have been acquired by the Government or are in the process of being acquired; or he must show that a demolition order has been issued by the relevant

*Rent Restriction Bill*  
[HON A. SMART]

*Tuesday, October 1, 1991*

authorities in respect of the premises. There are a number of other conditions under which a landlord may get possession of protected tenancies.

As I said, the important point to note is that the tenant becomes protected and it is extremely difficult for the landlord to get possession. The whole point is to give tenants certain protection under the Act so that tenants are not forced at the whim of a landlord to find themselves on the street, particularly when rents are high, and persons have difficulty in finding places to live. So, that is what the 1941 Rent Restriction Act is all about.

There is another Act, Act No. 45 of 1981, that was introduced into law in Trinidad and Tobago in 1981. It is called the Rent Restriction (Dwelling Houses) Act. Under the provisions of that Act, any dwelling house, the rent in respect of which, as of December 31, 1978, was \$1,000 or less, becomes a protected dwelling under the provisions of the Rent Restriction Act. If the premises are furnished premises, once the rent is \$1,500, or less, those premises are also protected premises.

The 1981 Act brought these provisions into being and indicated that certain provisions of the Rent Restriction Act, 1941, would apply. When the 1941 Act came into being, it was enacted for a specified time, the idea being that because rents were high at that time, you would introduce that legislation for only a specified period, I suppose on the expectation that rents would be lowered, and there would be no need for the Act. So the history of this piece of legislation is one which has been introduced only for a specific period.

I will give now, Mr. President, just a history of how the Act developed. The 1941 Act was re-enacted in 1943, and then again in 1944, and then in 1946, and again in 1949. There is a certain section of the 1949 Act that stated, and I quote section 1(2):

"This Ordinance shall continue in force until the 23rd of February, 1951, and may be continued in force for a further period of 12 months at any time by a resolution of the Legislative Council."

So that particular provision was introduced to allow for the Act, before it lapsed, to be extended by resolution. That principle has been used all the way down, to keep the Act into being, until it lapsed in February of 1990. Of course, the relevant resolutions were passed by the legislature to keep the Act alive. In 1949, it came into being for two years and there was a provision to extend it by resolution; in

1969, the Rent Restriction (Amdt.) Act, No. 4 of 1969, was enacted, and section 2 of that Act amended the same section 1(2), that I referred to earlier on, by substituting three years for 12 months, so that the Act then provided that it would have life for three years, and that if there was a need to continue the life by resolution, it would be in effect for a further three-year period, rather than 12 months as provided for in the 1949 Act. Government Notices No. 41 of 1972; No. 23 of 1975; No. 32 of 1978, were resolutions which continued the life of the Act. The Act which recently lapsed, that is No. 59 of 1950, which is a revision of the 1941 Ordinance, and which was devised by the Law Commission, section 1(2) states:

“This Act may continue in force until the 23rd of February, 1981, and may be continued in force for a period of three years at any time by a resolution of Parliament.”

On February 24, 1981, and again on February 25, 1985, the Act lapsed and ceased to have the force of law. That is because the resolution that was necessary to keep it going was not passed in the required time. Parliament was then forced to re-enact the Rent Restriction (Re-enactment and Validation) Act, 1981, and again, in 1985, it was re-enacted. By resolution of the Parliament, Legal Notice No. 34 of 1987, the life of the Rent Restriction Act was once more extended for a further period of three years commencing on February 24, 1987. That means, Mr. President, that the life of the Act was further extended for a further period of three years commencing on February 24, 1987, up to February 23, 1990.

Now, on that date, or some time prior to that date, there ought to have been a resolution of the Parliament to extend the life of the Act for a further period of three years. There was no such resolution, and the Act subsequently lapsed on that date as it ceased to have the effect of law. Now, the reasons for the lapse could be gone into, but suffice it to say, Mr. President, that there was an administrative weakness which did not allow for the expiry of the Act to come to the attention of the relevant persons at the time when it should have, and for that reason, the Act ceased to have effect.

As I indicated—and this is not an excuse, but it is just a question of history—it happened in 1981 and again in 1985. Clearly, it is an administrative weakness and that is why it happened again, but the Government has sought to correct that weakness and one hopes that provided the Act passes through this Senate today, that this difficulty will not arise in the future.

*Rent Restriction Bill*  
[HON A. SMART]

*Tuesday, October 1, 1991*

Mr. President, the Act, you will have gathered from all that I have said, seeks to prolong and perpetuate the protection of the tenancies of certain persons whose furnished premises are rented for \$1,500 or less, a month, or whose unfurnished premises are rented for \$1,000 a month or less. Those tenants would be protected under this Act. Now, clearly it infringes the provisions of the Constitution, and would require a three-fifths majority.

Mr. President, Act 45 of 1981, is valid and subsisting, but because the Rent Restriction Act on which it depends has lapsed, the provision for protection of those persons whose rents are \$1,000 or less in the case of unfurnished premises; or \$1,500 or less in the case of furnished premises, is no longer valid. This is why we seek to re-enact the Rent Restriction Act and to validate things done thereunder.

As I said, certain restrictions are being put on the enjoyment of property of certain landlords and persons who own property, and it is for this reason that we need the three-fifths majority in this Senate. It was already passed in the other place. So that we seek, Mr. President, to re-enact and revalidate things done under the Rent Restriction Act, and I therefore wish to commend this bill to this honourable Senate.

**Sen. Bahadoorsingh:** Before the Minister sits, would he give way to a question? He has been very factual in his analysis, but I have not gleaned any reasons which he has given for the prolongation of this piece of legislation today. Would he be good enough to give some reasons, apart from just the factual, historical background?

**Mr. Smart:** Yes. The reasons, Mr. President, for seeking to re-enact this Act is that the Government is seeking to continue the protection of those persons who are tenants, and whose tenancies in respect of whom the rents are \$1,500 or \$1,000, as the case might be, whether they are furnished or unfurnished, or less, the Government sees that it is necessary, in view of the state of the economy. In view of the difficulty that persons have at this point in time to find accommodation, the Government thinks it is necessary to continue to protect those persons who have to seek rental accommodation.

**Sen. Furness-Smith:** would the hon. Attorney General tell us whether there are any statistics as to the availability of accommodation in those financial brackets? I, with some hesitation, would suggest that there is, in fact, a considerable glut of premises waiting for tenants in certain brackets.



The supply is greater than the demand at the moment, and would that not be the time to try and do away with the control so that the market can take effect?

**Mr. Smart:** Mr. President, even though I do not have those statistics my information is, that the demand is greater than the supply, even at this stage, and for that reason, the Government thinks it necessary to continue the life of the Act.

**Sen. Spence:** Mr. President, I wonder if the hon. Minister would say something about the machinery for operation of the Rent Restriction Board; that is, the appeal procedures and whether the staffing of that organization is sufficient to allow the procedures to operate effectively.

**Mr. Smart:** Well, it certainly has not come to my attention, Mr. President, that there have been difficulties with the rent restriction and the operation of the boards. As a matter of fact, I may have some statistics here that indicate what matters are outstanding, but the outstanding matters are really small in number. I could probably, in the winding-up, give you some statistics, but, as far as I am aware, there are no serious difficulties in the operation of the rent boards.

**Sen. Spence:** Do they have a staff?

**Mr. President:** Excuse me, Sen. Spence. I allowed the first two Senators to ask questions as they rose immediately, before I even had a chance to propose the question. But all Senators will have the chance to say what they have to say, and ask what they have to ask after I have proposed the question and the Attorney General will reply to those matters raised by them when he is replying to the debate.

*Question proposed.*

**3.00 p.m.**

**Sen. Wade Mark:** Mr. President, the principle of parliamentary validation of expired legislation does not appear to be unfamiliar to this Senate. In fact, both the previous PNM administration and this present dying one, have displayed gross incompetence in this particular area. Reference is made here to the Fourth Session of the First Parliament of the Republic of Trinidad and Tobago, when the Senate passed on July 1, 1980, "An Act to Re-enact and bring into operation certain ordinances and to validate things done under ordinances and for matters incidental thereto".

That particular Act which was passed in the House of Representatives on July 2, 1980, and became Act. No. 31 of 1980, provided in section 3 (1), and I quote:

*Rent Restriction Bill*  
[SEN. MARK]

*Tuesday, October 1, 1991*

"Subject to subsection (2), each of the scheduled ordinances is re-enacted and deemed to have come into operation on the dates specified in the second column of the schedule in relation to that particular ordinance."

Subsection (2) of that particular Act declared:

"The Hansens Disease Control Ordinance 1961 is deemed to have continued in operation until 30th December, 1979."

Parliament thus re-enacted 12 different pieces of legislation, ranging in dates from October 1, 1962 to August 1, 1969.

The bill before this honourable Senate seeks to re-enact the Rent Restriction Act, Chap. 59, and to declare that all acts and things done or purported to be done in exercise of powers conferred under the Act, are deemed to have been lawfully done, notwithstanding that the Act ceased to have effect on February 24, 1990.

Mr. President, the bill recognizes that the proposed Rent Restriction Act, 1991 contains provisions that would make it inconsistent with sections 4 and 5 of the Republican Constitution of Trinidad and Tobago, but it relies for its expected validity on section 13 of the Constitution, which provides:

"An Act to which this section applies may expressly declare that it shall have effect, though inconsistent with sections 4 and 5, and if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual."

I emphasize this constitutional proviso which has been largely ignored by drafters of national legislation. I repeat:

"...unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual."

It does not appear in the preamble of this particular bill. In my view, it should have appeared. There appears to be a process—and maybe the Attorney General could probably advise his people, that this particular element of our Constitution should be incorporated in the preamble of all bills. That has been left out.

The Rent Restriction Act which the bill seeks to re-enact, with effect from February 24, 1990, is a piece of legislation that originated, as the Attorney General said, during the Second World War, when it would seem conditions were very different from what they are in 1991.

There was considerable shortage of housing and a greatly increased demand for housing during the war years and in the early post-war period. The actual physical accommodation available appeared to have been insufficient to satisfy the demand existing then. In the years since, there has been an increase in the quantum of new houses, particularly houses for sale; but there has also been a corresponding increase in the population of Trinidad and Tobago. Many persons, however, still live in rented homes and many others, who were in the process of owning their own homes, have had to abandon their efforts through inability to maintain their mortgages and have resorted to rental accommodation. From time to time, by advertised notices of sales of mortgages, the daily newspapers provide disturbing evidence of this happy turn of events.

Mr. President, home-ownership has become a virtual pipe-dream for thousands of prospective home-owners and a virtual nightmare for existing home-owners in Trinidad and Tobago. Given the projected population growth, household information and the rate of obsolescence, it has been estimated that approximately 11,000 units would have to be constructed annually over the next five years in order to maintain the rate of demand of our increasing population. The inability of thousands of citizens to meet their monthly mortgage instalments has placed the entire integrity and soundness of the financial system in crisis. At the moment, the country's total stock of outstanding mortgage debt to private and public sector institutions, amounts to over \$6 billion at the end of 1988.

**Sen. Hosein:** Mr. President, I wonder whether he can give us the benefit of the source of that particular piece of information.

**Sen. Mark:** The source is the Central Bank.

**Sen. Hosein:** Documents, my dear friend!

**Sen. Mark:** I had the privilege of being part of a trade union team that was negotiating better terms and conditions for workers in this country and we were told in no uncertain terms by the Government's team, that was the situation.

**Sen. Hosein:** Mr. President, what I would like, if it is possible at all, is for the hon. Senator to give us the document in which that information is contained, and the date of the document, so that we can identify with some degree of particularity, the source from which that statement is being made.

**Sen. Mark:** The document, Mr. President, apparently is a secret one; not even the public is aware of it, so I do not think he will be aware of it; but I have a way

*Rent Restriction Bill*  
[SEN. MARK]

*Tuesday, October 1, 1991*

of getting these sources. *[Interruption]* It is a secret document. Do you know about it? You will deal with me! How do you mean you will deal with me?

**Mr. President:** Senator, please avoid—

**Sen. Mark:** Yes. Well, you have to control these people on the other side, Sir.

Mr. President, I was indicating and I want to repeat, the country—

*Sen. M. Sampath rose.*

**Sen. Mark:** Is he on a point of order, or is he disturbing me?

**3.10 p.m.**

**Sen. Dr. Sampath:** Mr. President, is the Member dictating to the Chair as to what you ought to do, or what you ought not to do? Did I hear him correctly?

**Sen. Mark:** Mr. President, if he had that impression, I want to disabuse from his mind completely of any such impression.

As I was saying, at the moment, the country's total stock of outstanding mortgage debt owed to the public and private sector institutions, amounts to over \$6 billion at the end of 1988. It is also estimated that close to 80 per cent of mortgage holders are not meeting their regular monthly instalments in Trinidad and Tobago.

As you are no doubt aware, since 1987, the Government's settlement policy based on the Sou-Sou Land concept has been a disaster. One of the principal features of this policy is the provision by the state of fully serviced building lots as an alternative to its involvement in housing construction. The Government discontinued its programme of direct lending through the NHA for home purchase and has effectively curtailed its financial support to the Trinidad and Tobago Mortgage Finance Company. This shift in policy has eliminated an important source of housing finance to prospective low and middle income owners in Trinidad and Tobago. At the same time, a combination of fiscal, monetary and pricing policy measures have effectively postponed indefinitely, home affordability to many prospective home owners in Trinidad and Tobago.

Fiscal policy has eliminated deduction of expenses as rates and taxes, fire insurance and maintenance repairs, from taxable income. This has resulted in increased expenses of home owners and the share of income allocated to housing expenditure.

The Government's elimination of personal reliefs has also contributed to a reduction in disposable incomes for middle-income groups as well as contributed to an increased burden of mortgage debt service.

Mr. President, the reduction in the number of items under price control has led to an upward shift in the price level with the consequent fall in real incomes and an increased burden of mortgage debt service. The truth is that the structural adjustment measures imposed by the International Monetary Fund have resulted in steep increases in home ownership cost and have placed home ownership virtually out of the reach of tens of thousands of prospective home owners, and also thousands of existing home owners in Trinidad and Tobago.

There are several factors which militate against housing affordability of existing home owners. Among them, a decline in household incomes and an increase in retrenchment. Figures reveal that a total of 21,000 retrenched cases were reported to the Ministry of Labour between the period January, 1985 to March, 1988.

A second factor is a reduction in nominal and real incomes of a large number of households, severe cuts in the public and private sectors.

**Sen. Rampersad:** Thank you very much for giving way, hon. Senator. I am wondering if he can identify for us what percentage of that 21,000 of which he just spoke falls between the period January, 1985 to December, 1986.

**Sen. Mark:** I cannot provide that information. Maybe your Minister of Labour would be able in a better position. I think he has resigned also.

A third factor I wish to draw to Members' attention is the high level and variety of mortgage interest rates and I hope the Minister of Housing is listening here. You have a variety of interest rates being charged by the commercial banks, the trust companies and mortgage finance companies in Trinidad and Tobago. For instance the commercial banks, their rate of interest for loans for homes, ranges between 12.50 per cent to 16.50 per cent. With the mortgage companies the rate of interest being charged is between 9.50 per cent to 15 per cent and with the trust companies it is 9.50 to 15 per cent. Madness.

Many homes have been put up for sale or rent by their owners. Some homes have been put up for sale by banks, mortgage companies and trust companies because of people's inability, because of the draconian, wicked and cruel policies instituted by this regime in the last five years along with their sister and cousin, the PNM. You all are "B" and they are "A".

**Sen. Rampersad:** And UNC is Z.

**Sen. Mark:** This is part of the crisis. I want to bring to the Minister's attention some facts with respect to abandoned homes in Trinidad and Tobago and he can check it out. Between the period 1989 and 1990, the Trinidad and Tobago Mortgage Company recorded about 109 homes which people just gave up; packed up, they gone, they cannot pay. Between January and March, 1991 it had reached 63. At the moment, I do not know what is the present figure. Workers' Bank, 1989 to 1990—280 homes abandoned or the banks just took them over. If you go to Santa Rosa Heights today, you will find over 230 homes abandoned. They are empty. If you go to La Florissante there are over 167 homes abandoned; if you go to Victoria Heights, there are about 27 homes abandoned. In Trincity, close to 280 homes have been abandoned; at Lange Park—180 homes are abandoned; Diamond Vale, there are about 300.

The evidence shows that hundreds of homes have been virtually lost or abandoned or both, by their owners over the last five years. I would say even more, because it started under your cousin and you continued it. I think Sen. Rampersad wanted to raise a point.

**3.20 p.m.**

**Sen. Rampersad:** You called places like Santa Rosa and all those places, could you tell me what percentage of that figure you called for Santa Rosa and other areas, has been occupied at all; the abandoned houses you speak about?

**Sen. Mark:** You should tell me. I am dealing with abandoned homes. I am just counting. I am seeing houses abandoned. I did not go and investigate, for instance, how many were occupied and not occupied. Your Government should be doing that.

On the rental front, the classified advertisements of homes for rent occupy considerable space in some daily newspapers. Within the past week, one newspaper carried more than 75 classified announcements of homes, houses or apartments for rent. Several of those announcements were agents' notices, relating in some cases to six or more different places, furnished as well as unfurnished.

There does appear now to be a serious shortage of physical accommodation for rent, in spite of the given level of classified advertisement and the quantity of abandoned homes. However, when one looks at the rents required and the locations of some of the advertised properties, it is immediately evident that the

advertisements are aimed at the middle class and the upper class prospective tenants, who are financially equipped to pay from \$400 per month to \$1,200 per month for an unfurnished house or apartment, or from \$800 per month to \$3,200 per month for furnished accommodation. No poor person in Trinidad and Tobago could deal with that.

What is envisaged to be the plight of poorer persons, particularly the new poor? We have a new class of poor people created in this society over the last period of the IMF and World Bank presence and now we have another one on our backs, the Inter-American Development Bank. A new poor has been created by this regime. You have a situation in which those people have lost both employment and their homes, who really cannot afford the advertised rentals. They just cannot afford.

If the aim of our nation is a home-owning democracy, how will the unemployed ever own a home in Trinidad and Tobago? Where will even the employed live while they are trying to own their own homes, if rents are of the order of several hundreds or thousands of dollars a month? The reply may be that is precisely why it is important that the Rent Restriction Act that ceased to exist in February, 1990, should be re-enacted in order to regulate rent increases; but those who own or build homes for rent, they also are entitled, under the Constitution—I am putting in a word here for Sen. Bahadoorsingh—to a fair return on the money that they have expended in owning or building such homes.

The cost of building or of acquisition and of maintenance, to my mind, has risen and continues to rise. According to the Central Statistical Office Index of Retail Prices, based on September 1982, the figures for July 1991 showed that rent declined somewhat from 150.0 per cent in June, 1991 to 149.7 per cent in July 1991; but housing maintenance rose from 167.5 per cent in June, 1991 to 172.4 per cent in July of 1991. So maintenance costs have gone up and the interest rate on real estate mortgage loans in the first quarter of 1991, averaged 13.58 per cent at commercial banks and 11.25 per cent at non-bank financial intermediaries, according to the Central Bank's Quarterly Economic Bulletin of March, 1991.

In the existing circumstances, there is no doubt that there is need for some temporary control over the rate of rent increases in respect of housing within reasonable reach of the poor and the dispossessed. Some persons may choose to live on the streets—I think some Minister was indicating that people are free to live on the streets if they wish—but people in general ought not to be forced to do

*Rent Restriction Bill*  
[SEN. MARK]

*Tuesday, October 1, 1991*

so. If people choose to live on the streets, that is one matter, but you do not force people to live on the streets because of economic necessity.

Just about two weeks ago, in the *Daily Express*, we had the plight of Elsie Bissoon and her three daughters: Claudette, 8; Charlena 6, and Beena 4, who now live in Victoria Square in the day and sleep under a gas station in the night. That is the plight of the poor. That is what we talk about, the new poor, created.

The preamble of our Republican Constitution proclaims that

“...the people of Trinidad and Tobago:

- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity.”

If we can make a reality of the preamble of our Constitution, we should have no need for any further rent restrictions here—Rent Restriction Ordinances or Act—nor should we find ourselves in a position of having to resurrect a piece of legislation that had ceased to exist more than 18 months ago.

It is, to say the least, unfortunate, that legislation that has ceased to have legal effect should nevertheless, by inadvertence, continue to have practical economic effect. We ought to have learnt a lesson from the embarrassment to which the nation must have been put through in the 1980s, that is when they re-enacted, and brought into operation, certain ordinances and to validate things done under such ordinances, ranging in dates, as I indicated, from some time in the 1960s. We are talking about 1962 to 1969.

**3.30 p.m.**

The bill before this honourable Senate seeks to ensure that this Act continue in force until February 23, 1993 and may be continued in force for further periods of three years by resolution of Parliament. It must be to the nation's and young people's fervent hope that long before February 23, 1993, the necessary measures would be taken to give full effect to the preamble of our Constitution, thus



rendering it unnecessary for the out-going Attorney General to come back to this Parliament to re-enact any further legislation to deal with rent restriction.

Motivated by that hope and conscious of the possibilities of the rich potential of the nation, to not only muster the necessary human material and financial resources to satisfy the desires and dreams of tens of thousands of perspective home-owners, as well as existing endangered home-owners to have their homes, and to maintain existing ones, we hope that as we rush closer and closer to the next election, that the new administration that will take power—certainly not the NAR—will be able to translate both the spirit and the letter of our Constitution and, particularly the preamble, to translate into reality that preamble and declaration, to ensure that every citizen of this country: white, black, pink, yellow, Indian, African, Caucasian, or Syrian would be able to enjoy the fruits of our economic resources, and not allow, as it is happening under this regime, the economic resources of this country to be captured by a small clique, a small gang of unpatriotic men and women, who I wish to describe as the invisible government.

We have to ensure that in the future the people of this country, including the Bissoon's, would no longer have to sleep on Sackville Street under a gas station, and live, during the course of the day, in Victoria Square. I think it is a serious indictment against our society, particularly the Government, to have a woman, a citizen of this country with her three children living on the street. This is only a small manifestation of a bigger crisis that we have.

**Sen. Furness-Smith:** On a point of order. The hon. Senator has used strong language. He has referred to “a clique, a small gang of unpatriotic men and women”. I do not think that is proper language. That is divisive, and indeed, seditious and he must identify who those people are. If it is so small let him name them.

**Mr. President:** The group was not identified. The Senator would like to know the particular group in the country to whom you referred. If there is a particular group that you want to specify, I believe that the language is unnecessarily strong.

**Sen. Mark:** If, for instance, Sen. Furness-Smith does not like the term “a gang of unpatriotic men and women who constitute the invisible government in this country” then we can refer to them in a language that might be more acceptable to them, “the parasitic oligarchy”. I am certain that he would live with that better because he must be part of that, I do not know.

**Sen. Furness-Smith:** He is now suggesting that I am a part of that and that is offensive. He cannot say that maybe I am part of a parasitic oligarchy. That is as bad as anything. I must ask him to withdraw the whole of that statement or identify what he means by the expression “parasitic oligarchy.” Does he mean the hon. Attorney General?

**Sen. Mark:** He is a prisoner.

**Sen. Furness-Smith:** Let him name what he means by parasitic oligarchy? This is most important because he is, I am told, standing for particular honours and office and he is coming out with these expressions which are at the best and the worst, totally seditious.

**Mr. President:** I have been in another place for quite some time and that particular phrase has been very well accepted in parliamentary circles. However, I would ask the Member to withdraw the suggestion that any particular Member of this Senate may belong to that particular group, unless he specifically wants to make the accusation. Do not just leave it as a possibility.

**Sen. Mark:** I was simply attempting to capture my concluding remarks because I was winding down, but Sen. Furness-Smith wants me to continue. What I was seeking to do was to indicate that in Trinidad and Tobago—whether he wants to recognize it or not—the concrete reality is that there is a group of men and women who are in control of strategic sectors of the economy to such an extent that they have the present Government under their complete control.

What I am simply saying is that the term “parasitic oligarchy” is an accepted term. If Sen. Furness-Smith has a problem with that because it is a seditious term; if he is saying that he is not part of the parasitic oligarchy, well I have no problem with that. I will withdraw the statement that he is part of it, but the parasitic oligarchy exists in the country and we cannot run away from that. We might use different ways or different terms to define them, but they exist. If he is not part; he has left them; maybe that has happened.

**Dr. Bahadoorsingh:** Would the Senator give way to a question on a more mundane nature?

He referred to the part of the Constitution which states the resources of the country, which is an ideal, ought to sub-serve the needs of the people of Trinidad and Tobago. I would like to ask him since he is winding down, what concrete

plans does he or his party have to develop the housing industry in Trinidad and Tobago, to so sub-serve the needs of the people in a concrete way?

**Sen. Mark:** If the hon. Senator could have given me his hour, I would have gone into some detail because we have our manifesto. I can quote at length for him or if he wants, I can make a copy available. We have a perspective on development for all the Senators who would like to see what the new vision would be all about.

**3.40 p.m.**

In closing my presentation, I would like to indicate to the hon. Attorney General—I know he is a man who has a lot of ambition and that is good. He seems to mean well. I understand from sources that he does a lot of work on the ground and that is good. So, if one survives out of 36, he might be the man. I hope that the Attorney General will pay attention to this issue and not have us have a situation where, after 18 months, you have a piece of legislation coming to be revalidated. I hope that the Attorney General, if he happens to be anywhere near the seat of power in the near future, will be able to plan and organize his department in such a way that matters like these are not overlooked and in the future we would not have a situation where we have to come 18 months later to have something like this, an important piece of legislation, re-enacted. Thank you very much.

**Sen. Louise Horne:** Mr. President, the socio-economic situation is such that I am of the view that it is useful to remind Senators of the circumstances which gave rise to the Rent Restriction Act.

The Leaseland Act of 1941 enabled the United States of America to begin constructing bases in Trinidad and, as a consequence, people from the neighbouring islands came to this country, legally and illegally, to work on the bases. This caused housing to be at a premium. In the same year, 1941, the Rent Restriction Ordinance was enacted to restrict the rents of certain premises. A Rent Assessment Board was created to take care of the implementation. The Ordinance was to be in force until February 1951 and to be continued for a further period of 12 months, but it continued to be revalidated on a yearly basis until 1963 and thereafter on a three-yearly basis up to the present time. However, in 1954, 1960, 1961 and 1964, the Ordinance was amended to exclude certain premises from adhering to the Act, while through amendments in 1960, 1964, 1965, 1967 and 1968, landlords were in a position to apply to the Rent Assessment Board to increase the rent of certain classes of buildings.

When the price of oil increased in the mid-1970s, the trade unions demanded and obtained tremendous increases in wages and salaries for their members, and although the then Government embarked on an expensive and ambitious housing programme with private enterprise participating in the building boom, a number of problems arose. The housing situation became more acute because of an increase in the population, the proliferation of one-parent families and the fact that an appreciable number of young adults wanted to be on their own. Several landlords became avaricious and collected more rent than the law allowed, but furnished receipts in compliance with the law. Many tenants agreed to such arrangements in order to have a shelter without harassment. Those who did not honour such arrangements were given quick notices and subjected to all sorts of humiliations and inconveniences if they did not vacate the premises.

Complaints were so numerous that in 1981 the Rent Restriction (Dwelling-Houses) Act was brought about. Notwithstanding an agreement between landlord and tenant, a dwelling-house may not be let at the rent in excess of the base rent or the authorized rent as the case may be. This meant that rents reverted to what they were in 1978, which was the base year. The authorized rent would be that arranged by the Rent Assessment Board if the landlord showed proof of having repairs done—not improvements, not maintenance, but repairs. Many tenants welcomed the provision but there ensued important disadvantages.

The first was that those citizens who made sacrifices and bought or constructed houses for rent before the base year and retired before the oil boom in 1974, were at a disadvantage because in the lean 1950s and 1960s many of the modest houses were rented for very little because salaries were low. Even when rents rose during the oil boom, several tenants got preferential rates as an incentive to use the house with care.

It is important to remember that with respect to landlords from a certain background, the milk of human kindness flowed freely. They were not all guilty of avarice. So landlords who did not increase their rents during the boom years were at a great disadvantage. A landlord who owns a property in a residential area in the city, has two houses erected on the site which measures 5,000 sq. ft. The houses were built before 1978 and, therefore, subjected to the Rent Restriction Act of 1981. At the present time, the landlord collects \$70 and \$23 per month, respectively, for the two houses and that is, \$360 per annum.

Within recent years the Water and Sewerage Authority has increased the rates and the landlord's water and sewerage bill is now \$737 per annum. There is no

need to talk about other expenses such as house rates, *etc.* With the devaluation of our currency on two occasions, together with the high cost of material and labour, the rent does not allow the landlord to effect any substantial and necessary repairs and many houses in that category are now appreciably downgraded with respect to their suitability for habitation.

Another problem is that the number of buildings for rent has declined as entrepreneurs know that they can earn and receive better returns on their investment in other areas; not in houses for rent.

The country has a housing crisis and one would imagine that Government would recognize that the present provisions of the Act have outlived their usefulness; that new arrangements are necessary because the landlord is also a citizen entitled to the enjoyment of his property.

Many citizens bought or constructed a property in the 1970s to augment their pensions but now find that the property is like a millstone around their necks. Few people wish to purchase a property on which there are tenants. To remove them lawfully is very difficult. Should the property be sold, the value of the Trinidad and Tobago dollar is low and the interest on investment is low, so the landlord is striving to hold on to the property in the hope that the restrictions would be amended in his favour. There was a promise to review the Rent Restriction Act 1981, but it was re-enacted and revalidated in 1985 for three years until February 1987.

### **3.50 p.m.**

Mr. President, in 1984, the World Bank expressed an opinion with respect to Rent Restriction, and I quote:

"In the Trinidad and Tobago housing sector analyses by the Urban Unit Division for Latin America and the Caribbean regional office, their recommendation in relation to rent restriction '-A2-' is to abolish or relax rent restrictions."

In 1985, when the matter for revalidating rent restrictions came to the Senate, the then Leader of the Opposition in the Senate who is now a Member of the Government, had this to say in his contribution to the debate. This debate, Mr. President, was Tuesday, February 17, 1985 and this is what the Member of the Opposition in the Senate said:

*Rent Restriction Bill*  
[SEN. HORNE]

*Tuesday, October 1, 1991*

"Our own local experience, plus the experience of the World Bank, has indicated a serious need for us to have a review of the existing rental arrangements as we have them in Trinidad and Tobago.

But none of these matters are dealt with. We would have found it possible and perhaps easy to support the validation if the Attorney General had only come and addressed himself to some of these issues and satisfied our minds that the Act had indeed been working well and, some of these reports that we have obtained and which we are bringing to your attention, are invalid. But this is not done. We are just given a few brief remarks about workings of the Board but absolutely no comprehensive report on the operation of this piece of legislation. Yet, we are being asked to revalidate the legislation until 1987 when we do not know that it has worked over the last three years or whether indeed the Act was valid. We do not know all these things but we are asked to buy "cat in bag" by revalidating this, of which we have had no account whatsoever.

So, Mr. President, we, on this side will find some difficulty in supporting this legislation unless the Attorney General, or the former Minister of Housing and Re-Settlement who is here with us in the Senate, can rise to the defence of his colleague and attempt to satisfy the fears that we on this side have, before we can revalidate this bill."

Mr. President, the former Opposition is now the Government and the Government is now asking the Senate to do precisely what it was extremely critical about in 1985.

**Sen. Hosein:** Mr. President, could I get some information from the Hon. Senator, if I may? I just want to find out the name of the person who made those comments in 1985, because I think the Hon. Senator indicated that the person is now a Member of the Government.

**Sen. Horne:** Mr. President, why do we want to bring names? It is in *Hansard*, February 17, 1985. The present Government was the opposition. Do you understand?

**Mr. President:** I think what he is trying to point out to you is there are Members on the opposite benches in the Parliament of 1981 to 1986 who are now on both sides of the House and other place, so I think he wanted to identify the person.

**Sen. Horne:** The Member is now a Member of Government. That is as much as I am saying.

Mr. President, the former Opposition is now the Government and in 1987, it asked this Senate to do precisely what it was extremely critical about in 1985.

Mr. President, rent restriction adversely affects the provision of houses for rent. We have only to remember that recently 200 shacks were destroyed. The housing problem continues to be acute and what units exist ought to be maintained. The difficulty is, that I have been unable to collect any information concerning the number of dwelling houses involved in the Rent Restriction Act. There is no information concerning the number of landlords involved; the number of units lost as a consequence of late rents; the number of housing units still required. It is all right to make land available at a price which is described as reasonable, but no bank will give a loan to erect a house if the prospective borrower does not have a deed for the land. The deed is not available until the total cost of the land is met and with the downturn in the economy, comparatively few houses have been built, but there has been a proliferation of squatting. Now, in 1991, after a period of four years and eight months instead of three years, we are again asked to re-enact and revalidate the Rent Restriction Act until February 1993. The situation which was responsible for reducing the rentals of certain houses to the 1978 level no longer exists. The provision has outlived its usefulness. There is need for new thinking.

Mr. President, I need some information concerning the number of landlords involved; the conditions of the housing units subjected to the 1978 rent and the impact the Act has at the present time on landlords. I would like to know this before I can support re-enactment. Thank you.

**4.00 p.m.**

**Sen. Dr. Krishna Bahadoorsingh:** Mr. President, I do wish Sen. Mark were present right now, because I would like to begin my very brief contribution today by indicating what I regard as a terrible inconsistency in one of his more controversial statements which infuriated my colleague to my left. I think the terminology was "sedition" and so forth, strong legal terms, which he used.

The inconsistency, Mr. President, is that if, indeed, this Government were in the clutches of this so-called "parasitic oligarchy", why, therefore, did this parasitic oligarchy allow the Government to bring this bill today? Certainly, if the

*Rent Restriction Bill*  
[SEN. BAHADOORSINGH]

*Tuesday, October 1, 1991*

Government were in the clutches of a “parasitic oligarchy”, they would have been prevented from bringing this bill today, because this bill goes contrary to the needs and demands and wishes of any landlord in the country, and any “parasitic oligarchy” would, *ipso facto*, be referring to propertied people, I would presume, people who would create jobs in the country and I expect a large number of jobs. So if his statement were correct, I would think that this bill would not be before us today.

Mr. President, in reference to that statement by Sen. Mark, and I wish he were here because I do not like to make statements in the absence of the people to whom I am referring. But all I have to say about that statement—and I am sure the Government can defend itself—is to quote our first Prime Minister, Dr. Eric Williams, when he referred in another context to the statement, "that way madness lies".

Mr. President, the type of comments that I heard from Sen. Mark, I believe, are quite frightening. I wonder how Senators Amar and Moonan can continue an association of this kind, because I know their method of thinking. That very method of thinking would lead this country to achieve the economic level of Romania or Albania and not even Estonia, Lithuania and other countries of that kind. So I think that is very dangerous, Mr. President.

I am disheartened, however, to indicate and I express with a great deal of displeasure that he simply did not answer a simple question from me in terms of his plans and the plans of his party with respect to this ideal of providing every member of this country with adequate housing. On that point, Mr. President, I merely want to allude to the fact that housing is one of the most difficult problems faced by any country in the world, including the United States, the richest country in the world, Mr. President; it is a very difficult problem. I would have a few things to say about housing in the next few minutes.

Even in the United States, Mr. President, you have homeless people, you see them on CNN. You have a number of homeless people in the country, you have people who have to abandon their homes because of the nature of the economic cycle. These are very unfortunate things. I am not trying to make excuses for this Government or the United States, but these are facts that we have to face in life. It is incumbent on this Government, and the US Government, to solve their problems and find solutions to these problems. I am not trying to compliment the Government for doing a good job, because I do not think in the field of housing that this has been the brightest spot for the Government. I will say this very openly.



Having made those comments, Mr. President, it is not to say I am going to support this bill, because I do not plan to do so. This is about the fourth time, as a Senator, that I am standing here to make a few comments about the very same issue which has appeared before us on at least three previous occasions.

Mr. President, I was reminded by Sen. Horne, when she showed this document which she quoted, which is concerning our debate in February, 1987, and I referred to a contribution I made then. When I looked at that contribution, I remembered that I had to have extra time, way beyond the 45 minutes. I may have spoken for about 60 to 70 minutes on that occasion. But I do not plan to do so today, because I do not plan to reiterate all the issues which I brought up then and on two separate occasions prior to that. As in the past, I find myself in a position where I am unable to support this piece of legislation, but in so doing, I would like to indicate that I am not unmindful of the plight of the occupiers of the properties. They have a problem, the Government has a problem, but I do not believe that the implementation of certain measures has taken place to solve this problem.

I do not believe that any government could have solved these problems in five years. I do not believe this particular Minister, no matter how excellent he may be, could have solved this problem in two or three years of being a Minister in this particular ministry. Indeed, it is a large problem that faces our country. It will take many years and many billions of dollars to solve this problem. I am aware that the Government is not in a position of having this type of money.

Again, Mr. President, it frightens me, also, when one has to bring a piece of legislation before us today which needs a three-fifths majority, which denies certain citizens their rights and enjoyment of their properties.

Mr. President, as I said, I am going to be very brief, but I would like to ask the Minister a question and I believe the question would arise out of the one asked by Sen. Furness-Smith, that is: Approximately how many properties are so affected? Would it be 1,000, 5,000 or 20,000? About how many properties are affected by this piece of legislation that we have before us today? I do wish the Attorney General or the relevant Minister who is visiting us today, would give us some indication of the magnitude of the problem as the problem relates to the property owners. What effect would this piece of legislation have on the property owners overall? Also, Mr. President, another question: What plan of action does the Government have to change the situation and not bring this bill before us for an extension in two or three years' time? Is there a plan of action? Because if you are

*Rent Restriction Bill*  
[SEN. BAHADOORSINGH]

*Tuesday, October 1, 1991*

bringing this bill *in vacuo*, without any plan of action, well then I think the situation is even more serious than I would have thought, hence the reason I interrupted the Minister before he finished his contribution to ask the question. Mr. President, I am of the opinion—and I wish that I am wrong that the bill is being brought before us today in the absence of a plan. If I am wrong, I would wish to be corrected. If this is so, well then—I hate to say this—this is precisely what the previous Government had done; constantly brought this bill for renewal in the absence of a plan. If this is the case, well then I would like to quote that famous French expression, which I quoted some time ago on another occasion: "*Plus ça change, plus c'est la même chose*", which, as you know, means that the more things change superficially, fundamentally they remain the same.

So I would love to be corrected by any relevant Government Minister to prove that I am wrong; that there is indeed a plan to take care of this situation. I am aware that whatever the plan may be, it would have to do with our economic conditions in the country and our economic conditions generally, but more specifically our housing policy in Trinidad and Tobago. So far as that is concerned, Mr. President, and I am glad the Minister of Housing is here, because as I said in reference to Sen. Mark earlier on, when he was not here, I do not wish to say anything behind somebody's back. But it is my view, that this Government—

**Sen. Lequay:** Mr. President, I want to ask the hon. Senator if, by his own words, he does not appreciate that even if there is a plan, that the issue of housing, as he has described, is so large that we shall have to continue to protect those in low-income brackets for many years?

**Dr. Bahadoorsingh:** I would like to think, Mr. President, that if the Government were to have a plan and if protection of the occupiers of these houses would be necessary, that one could phase out this protection over a period of time. I would think that many home owners would have a social conscience and if they were to know that over a period of time the shackles would be removed from them, many of them would have the patience to wait. Maybe some of them do not have the economic means to wait.

So, as I was saying about the housing policy of the Government, Mr. President, what this Government has done—and this is one of the areas where I have been critical; I have not agreed with the Government—is tacked on the Ministry of Housing as a stepchild on a larger, more difficult ministry. Is there some symbolism? Because I do not know of any human being who can effectively handle the Ministry of Public Utilities and the Ministry of Housing.

Mr. President, the Minister is here, and I know that this Minister is quite powerful. I know that. Maybe she does not know that I know that, but this Minister is powerful. I think, it would be unreasonable to expect this Minister to do the job of three men. Maybe she can do the job of two men, but not three men. I compliment her for being able just to stand up and walk, because if one were to attempt to handle all of the problems of the Ministry of Public Utilities alone, I think that would be a gargantuan task.

As a matter of fact, Mr. President, I believe the Minister is overworked, and I believe that there is too much expected of her. Because only yesterday, the WASA people, given the dissatisfaction they have had, taking their vehicles downtown and snarling traffic all over Port of Spain. I will go so far as to say that if you had a minister only for public utilities or a minister only to tackle the problems of WASA, that minister would be overworked, far less for all the public utilities, and then to add insult to injury, in my opinion, to tack on the Ministry of Housing as an unwanted stepchild.

Now, Mr. President, this is one of the areas where I cannot identify with the policy of the Government, and I want to make it clear I am not criticizing the Minister. I am sympathizing with the Minister, but I wish that the situation were somewhat different.

I would like to reiterate the question which I posed earlier on to the Attorney General; I would like to hear what overall plan they may have, how this bill will fit into it and whether we are going to see in the future *in vacuo* this bill coming to us for extensions in the future.

Mr. President, with those few comments, as I mentioned, I do not plan to reiterate—

**Sen. H. Charles:** One very quick question. Having regard to what the Senator said about the number of years that may be required by any government to solve this housing problem and the amount of money that may be required, and having regard to the question raised by Sen. Lequay as to the economic conditions of the country today, would Sen. Bahadoorsingh support the repeal of this Act at this particular point in time?

**Dr. Bahadoorsingh:** Mr. President, I think that is a very good question. If one were to repeal this Act today, if one were to continue to adhere to the fact that the Act is repealed, I think you are going to have social problems of a gargantuan

*Rent Restriction Bill*  
[SEN. BAHADOORSINGH]

*Tuesday, October 1, 1991*

nature. It is equivalent to saying you are not going to subsidize Caroni. If you do not subsidize Caroni, you are going to have social problems that you cannot handle. So one needs to continue to suppress the landlords, diminish their rights, in order to prevent a social upheaval, and this is what we are all about here today: To suppress the landlords, diminish their rights in order to prevent a social upheaval.

Mr. President, which is the lesser of the evils, to have a social upheaval that any government would be unable to handle or to squeeze a few landlords in order not to have that social upheaval? The answer is obvious. But my problem is, would this continue in perpetuity? If I were to see a plan on the part of the Government and if I were to be a landlord with property, who is injured because of this piece of legislation, I would fulfil my social responsibility. I would not like it, but one has to have a sense of social responsibility, a feeling for the poor. So I trust that the question has been answered.

Mr. President, before I take my seat, Sen. Mark did make comments about the Government and the interest rates and so forth. The Government can speak for itself, but I do know that soon after it came into power, one of the first things it did was to look at all the inflated prices which had been charged for houses and decreased those prices. Now, to me, this is an act of caring, and the Government boldly took that decision. However, when it became necessary for the same Government to take a decision to cut certain salaries, because it did not have the money, it was criticized for that, and it is still living through this criticism.

Now, so far as Sen. Mark's figures about 9½ per cent and 12 per cent and 15 per cent, Mr. President, unless you want to get like the Soviet Union, Romania or Albania, this or any government would not be in power and it would not be consistent with our economic system to tell the trust companies or legislate for the banks to charge a lower interest rate. This is not the way our system works. But Sen. Mark did not tell the whole story, because I do not think he knows much about housing. I think I know something about housing and I would like to tell him that this Government and the previous Government, both of them—PNM Government and this NAR Government—when it came to housing, they have taken, at least in one sector of the housing market, a very laudable, sociological approach when it comes to interest rates and the availability of mortgage finance for low-cost housing. Now, I know about that.

If Sen. Mark would have told the whole story, he would have seen where a goodly part of the interest rates are substantially less than 9½ per cent.

I am of the opinion, subject to correction—the Minister is here and I am happy to be corrected if I am wrong—that you can go to the National Housing Authority and for categories of homes, around \$40,000; \$60,000, whatever, you can get loans at interest rates at around 4, 5, 6 per cent or whatever, but in that area, in that category. Maybe the Minister would apprise us of those details.

Mr. President, I want to reiterate—this is the point that Sen. Charles reminded me of—the housing problem in this country is great. I made the point some time in the past when Minister Humphrey was visiting us here and he was the Minister of Housing and he used to talk—he had certain attitudes about Cuba, *et cetera*, in the past, which I did not share, and I proved he was incorrect—that our record with respect to housing in Trinidad and Tobago, with respect to what this and previous Governments did; with respect to the private sector did, exceeded what that so-called fantastic machine in Cuba was able to do. We are better off in housing in Trinidad and Tobago, given our private enterprise system, than the situation in Cuba under a dictatorial system.

But the problem is large. One has to have a lot of financing. You have to have billions of dollars. One of the things I spoke about *ad nauseam* in this place—and this Government has not done much about it or anything about it, if anything, it has made the situation worse—is the bureaucratic process that one has to go through to get a plan passed for one's lands and to get one's house built. It is crippling and, perhaps, inadvertently what has slipped through the bureaucracy are one or two other layers of bureaucracy, that before you do certain things you have to call a certain inspector to check—perhaps it was copied from what may have been done in more developed countries, but are we sufficiently efficient to impose these further bureaucratic restrictions?

Mr. President, the problem is large. I do not want to go over all the issues I have raised in the past so far as housing is concerned. I am dissatisfied—and I repeat it—that the Ministry of Housing is an appendage to another ministry. That, to me, is highly unsatisfactory.

So, I await eagerly the statements by the Attorney General and, perhaps the Minister, with respect to what the plan is and where we are going.

Thank you, Mr. President.

**Sen. Michael Mansoor:** Mr. President, I will be very brief and probably finish before tea-time, because my thoughts on this particular bill are very clear.

*Rent Restriction Bill*  
[SEN. MANSOOR]

*Tuesday, October 1, 1991*

I think this is a particularly sad day in the life of this Parliament, because this bill, in my view, represents a departure, a very serious departure from the philosophies and policies which I believe this Government has espoused and has sought to implement during the last few years.

We have had a lot of talk in this Parliament about privatization, the free-market forces, the ability of the market-place to deal with problems of supply and demand. While I accept that there is some merit and some value in the point that Sen. Bahadoorsingh made, that if rent control were miraculously removed tomorrow, we may have a social upheaval, I think the point must be made if we perpetuate the present state of affairs, that the housing situation in this country would never be improved.

Simply put, Mr. President, no private-sector person in his right frame of mind, would ever seek to supply housing units for rental in Trinidad and Tobago under the present state of affairs in the economic groupings that we are talking about, the rentals for the lower-income groups, even in the middle-income groups. Why is it, for example, that none of our private-sector organizations have put up large high-rise apartments for rental? Simply because they are caught in this trap that if they put up these rental units, someone is going to tell them, retroactively or otherwise, that the rental cannot be above a certain rate.

So that what we are doing is perpetuating a system that will always militate against a provision of housing for rental. It seems to me, that no one has really given serious thought to what appears to be a very innocuous piece of legislation; what this re-validation would do. What we are doing is perpetuating the status quo. We are saying to people in Trinidad and Tobago, "Do not put up houses for rental. Do not rent your house. Because someone will come and tell you that you must roll back the rent to the rate of rental five, six or seven years ago", which was done in 1981, I believe; rentals were rolled back to the rates of 1978.

Now, Mr. President, that is patently wrong. It does not make sense. We had a Minister of Government saying here last week, I believe it was, that the health services would be privatized, and he did that for good reason. But here we are perpetuating this very retrograde type of thinking that has been proved not to work in any part of the world.

Mr. President, if the Government is so interested in providing rental to lower economic groups at low rates, why could it not put up housing units for rental?

How many housing units for rental has the Government put up in the last few years? But it seeks to force private persons to rent their properties at rates that pertained in 1978.

Now, Mr. President, I believe it was Sen. Mark who talked about inflation, and since 1982, the cost of food has increased in this country by three and a quarter times, to use the Central Bank's publication at table eight—I know Sen. Fyard Hosein is always very anxious for these sources to be cited. Food has gone up by three and a quarter times. Why does the Government seek, in 1991, to force owners of property to rent properties at rates of rental that pertained in 1978?

We are never going to sort out the problem in this country; we never will, simply because no one in his right frame of mind under this set of circumstances will provide housing units for rental. Therefore, the Government is faced with the task of doing it.

Take the NHA, Mr. President. I am not aware of what has happened with the NHA since 1987, but I am very aware of what happened in years prior to 1987, because I sit on the Public Accounts Committee, and the accounts of that particular organization come to that committee. It is a disaster area. It was a disaster area, in 1982, when it cost this country some \$12,000 to maintain each unit of housing that the NHA owned in that year and the rental for each of those units probably was not \$500. Why not give the units to the people who occupy them? Let them own them and let them maintain them? We seek to support people in ways when they do not need that support.

I was very distressed to hear the Attorney General say that he was not aware of the machinery that was in place to deal with the assessment of properties. Because if you are going to impose rent restriction, surely it is absolutely important that you have a system whereby units can be reappraised—

**Mr. Smart:** On a point of order. I did not say that I was not aware of the machinery, I said I was not aware that there were problems with the machinery.

**Sen. Mansoor:** Mr. President, I will tell the good Attorney General, I apologize—

**Mr. Smart:** In fact, I was saying that they had no serious problems with the machinery at the rent boards.

**Sen. Mansoor:** But are you in a position to say whether or not the machinery works? I mean, how many properties have been re-appraised, so that people can get a fair rental for their properties in 1991?

**Mr. Smart:** As I indicated, I have the information as to how many of these matters were outstanding at the various boards and I would be in a position to give that information. I also said the figures are very low, 10 in one case, 15 in another.

**Sen. Mansoor:** Let me suggest, Mr. President, to the Attorney General that the reason that they are low is that people are just fed up and they do not want to go about it, because they know nothing happens. No one has ever been able to get, to my knowledge, justice from that system. I think that the Attorney General would agree that I am right.

**Mr. Smart:** I certainly do not agree.

**Sen. Mansoor:** But, Mr. President, neither the Attorney General nor I have the facts. So let us leave it like that. But if the Attorney General wants to state that there is a good system whereby people who rent properties at rates that applied in 1978, can get those rents raised to 1991 levels, if the Attorney General is saying that, well, I hope that the people will hear it and I hope that they will go to the appropriate agency of Government and get the rents raised to 1991 levels tomorrow morning.

So, Mr. President, to conclude, I believe the revalidation of this bill is completely inconsistent with the policies which have been enunciated by this Government over the last four and a half years. I really would like to ask the Government to reconsider the perpetuation of this piece of legislation which, in my view, guarantees that the status quo in housing, whereby people cannot obtain the demand for housing units at certain levels will always exceed the supply. I ask the Government to rethink its policy so that this situation can be changed.

Thank you.

**Mr. President:** I think we have reached a time when we should take a break. Sitting of the Senate will be suspended for half an hour, we will resume at 5.00 p.m. and Sen. Baksh will contribute.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Sen. Salisha Baksh:** Mr. President, man has three basic necessities: food, clothing and shelter. It is imperative in every society that the state provide a ready and available source of these three commodities. In Trinidad and Tobago there is a



housing deficit and it is therefore the duty of the state to implement tools of social opportunity for persons in need of housing. Not only must the state make provision for adequate housing schemes, but also provide protection for those citizens who take advantage of the available opportunities.

Every man dreams of owning his own home, for a man's home is indeed his castle. It is a place of refuge, a place of quiet, of rest, a legacy he can pass on when his name is heard no more. But not every person can afford to own a piece of land with a house on it. Sometimes, it becomes necessary to find an alternative to this type of "ideal home-ownership." One such method is renting from land-owners, usually freeholders.

The demand for land, whether for residential, commercial, industrial or agricultural purposes, usually outweighs the supply. Because of this demand, there is the ever present danger that land-owners would extract harsh terms from prospective tenants, for example, exorbitant rents. Thus, the Rent Restriction Act seeks to reduce or eliminate this danger by controlling rents charged by landlords of dwelling houses and public or commercial buildings, while at the same time conferring some security of tenure on tenants. In the area of agricultural property, similar control is exercised through the Agricultural Small Holdings Tenure Act. We must remember that the rent restriction laws are used by the state to offer protection to those persons who fall in the category of the landlord and tenant relationship. But at present our legal system is defective because it fails to provide an adequate framework of rules or an administrative system to encompass and define clearly the various forms of ownership prevalent in our society. As a result, there is no effective legal machinery in place to facilitate certain transfers and other dealings with land and to safeguard its use and enjoyment in both the private and public interest.

Other jurisdictions have appreciated the need and enacted appropriate provisions in certain important areas of law, such as the law relating to condominiums. What is most alarming is that although the demand for condominiums in Trinidad and Tobago has increased over the last decade, we still lack legislation which specifically provides for their management and control. Special legislation is needed with respect to condominiums, bearing in mind the complex conveyancing problem which arises when land and buildings on land, are made subject to this type of sub-division and multiple ownership. For example, there are no provisions in the Real Property Ordinance dealing especially with such

sub-division of land and providing for the issue of separate certificates of title to each owner of a unit in the scheme.

As a result of the lack of laws dealing with condominiums and despite the great demand for this type of housing option, the sale of individual units is sometimes extremely difficult and jeopardizes the economics of the entire scheme for the developer who usually borrows heavily to finance his development.

In practice, Mr. President, devices have been created to circumvent the problem of insufficient legislation. One such device is that the condominium, as a whole, is sold to a company whose shareholders are unit owners with each owner having exclusive possession of his particular unit. While this device may seem creative, the adverse legal implications remain.

For example, a prospective buyer of a unit in a condominium development does not benefit from fiscal policies which the normal home-owner enjoys. At present, an owner and occupier of a dwelling-house enjoys the tax-deductible benefit of the interest on his mortgage, but this tax benefit, according to my knowledge, however, is not enjoyed by an owner of a condominium unit since his particular unit does not come under the ambit of the legal definition for "dwelling houses", nor does his shareholding in the company which owns the entire condominium development, carry the legal significance of ownership of real property.

Unfortunately, we are not sure whether we are in a state of economic incline, recline, or decline. But one thing we do know for a fact is that we are facing an acute and increasing problem of inadequate and unaffordable housing in this country. Although attempts have been made to resolve this grave situation, by the adoption of famous concepts such as the Sou-Sou Land there is still urgent need for the enforcement of the necessary legal machinery.

**5.10 p.m.**

In 1977, Mr. President, the Government of Trinidad and Tobago decided to embark upon a major programme to reform its land laws which were then, as they are still now, largely based upon old laws incorporated in Britain. The irony was that while the laws were long since replaced in England, our land laws remained outdated, and unrevised. Thus, there was a dire need for land reform in Trinidad and Tobago.

In 1981 there were six major pieces of legislation enacted, namely:

- (1) The Landlord and Conveyancing Act;
- (2) The Landlord and Tenant Act;
- (3) The Land Registration Act;
- (4) The Condominiums Act;
- (5) The Trustee Act;
- (6) The Succession Act.

According to J.C. Wylie in his book the *The Land Laws of Trinidad and Tobago* which was published in 1986:

"The delay in bringing the new laws into force, was due to the time needed to complete consultations with interested parties in respect of the rules and regulations and to plan and execute the establishment of the new land Registry."

Mr. President, whatever the reason for the lack of up-to-date legislation, one point has to be emphasized and it is this: At present there are no laws relating to certain available housing options such as duplex schemes and condominium and town-house schemes. Thus, while it is important for us to pass legislation such as the bill before us today, which seeks to re-enact the Rent Restriction Act and to validate things done thereunder, we must also address our minds to new laws which will help to resolve problems such as inadequate housing relating to land law.

There is no doubt that most of our land laws in Trinidad and Tobago are outdated and grounded upon ancient principles which are now obsolete or irrelevant in English land law. Thus, it is our duty as legislators to identify the inadequacies in the law, to enact new laws, to deal with present problems and to ensure that all persons are granted some protection by the laws so enforced.

I thank you.

**The Minister of Settlements and Public Utilities (Hon. Pamela Nicholson):**

Mr. President, I am very pleased to be here this afternoon and to be a part of this very important discussion which relates to the Ministry of Settlements and Public Utilities. It deals with an Act to re-enact the Rent Restriction Act, Chap. 59:50 and to validate things done thereunder.

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

The Attorney General dealt with the basic legal aspects of the discussion so I would not go into that. But I would first like to rebut some remarks that I heard earlier on. I will deal firstly with Sen. Wade Mark. In his discourse, he said that the problems that we have in the country are: people have shifted from mortgages to rental; home ownership, pipe-dreamed, 11,000 houses to meet rate of demand. He also spoke about mortgage debt service, dilemma through Government's failure to lend, and that scenario came about because of severe cuts in salaries, and the high level of variety in interest rates.

I would like to inform the hon. Senator that when he talks about the scenario, with respect to dwelling houses at various areas in Trinidad: Victory Heights, Trincity and so forth, one of the fundamental things that the hon. Senator must remember is that during the boom period, people built homes beyond affordability. It is a fundamental point and a weakness in the whole scenario, with respect to settlements and housing in Trinidad and Tobago, is that during the boom period people went to the bank—if a husband and wife worked for \$8,000 and wanted to build a home for \$7,800 they were given the money and proceeded doing business. That should never have occurred in the country, because they should only have been given 33 per cent of what they worked for. Why? Because they had to pay their instalments; they had to take care of their families; they had to provide food and things like that.

What occurred at Santa Rosa, what occurred at Victory Heights and all those areas, occurred because people built what they could not have afforded. I always make the argument. They look at Goodwood Park and they see Mc Al—do we have any representative here today—I am sorry Senator but I am not coming in your direction, but the point I am making is, one has to function against the background of affordability. So if I am working for \$2,000 and I want to build a home or I want to purchase a home or I want to rent somewhere, I rent in terms of my monetary position and not because I see the neighbour with a five bedroom, or a six bedroom, or seven bedroom or a split level home with a balcony and so forth that I could not afford. I could take you on a trip to see the houses. It is because they could not have afforded them.

**5.20 p.m.**

So immediately, you had an economic problem in your country, they just had to go and give in the keys. They just had to disappear, because they felt embarrassed to be around to give in the keys and to start again. I want you, hon.

Senator, to recognize that, because if you do not recognize that, well I know that you will not be in the next Government, you will be sitting right where you are sitting; and we are not dying, we will be right here, as the Government, hon. Senator.

You have to recognize that affordability is critical and this is one of the fundamental areas that this Government is making sure that we are pointing out to the population. So when you talk about people have shifted, people had to shift; because people did what they could not have afforded so they had to leave them; either run away from the country or they had to look for somewhere to rent.

Again, they go for somewhere to rent and the same obtains. They rent something that they cannot afford. While you go to rent, you should rent what you can afford. Think—and Sir, I am stressing that for you—think about your affordability. It is very, very important.

Now, you want a home. It is a dream. As far as this Government is concerned, we are giving a dream. If you are very serious as a representative of the people, you would recognize that we are giving the dream. Listen to the policy of the Government, as against what obtained before. I just want to give a few examples, because our memories are very short, in Trinidad. Note, I did not say, “in Trinidad and Tobago”. I said “our memories are very short in Trinidad.”

I want to tell the Senator what the last Government did. Charford, that is 1.8 acres of land in the Oxford and Charlotte Streets area, was bought from an individual—I am not calling the name—for \$22 million. When that was done, the whole of Port of Spain East was already purchased by the Government. So what the Government should have done was, instead of buying that to build Charford, the \$22 million should have been spent on Port of Spain East, putting down buildings for the low-income people of the area. I want to remind you because your memories are very short.

I go to Malabar: \$129.8 million should have built houses at Malabar. It was given to a particular contractor—I am not quoting names, again. Mobilization, up-front payment, \$12 million, was given to that individual; total amount of payments certified, after two years, \$41,192,391; total number of units delivered, 55, for \$41.1 million. Understand the sqandermania that took place in this country. It is why we have the dilemma today. This Government should really be praised and lifted high. The only Government that can run Trinidad and Tobago, the National Alliance for Reconstruction.

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

That is what occurred there. They were not finished. After they took away the contract from that individual, another contractor was given the contract and do you know what happened to the walls of those buildings? Gypsum board was used. Did you ever hear about it? I am in housing now, so I know about it. When the rains came, and the people cuffed the walls, their hands went through their walls. That was one of the fundamental reasons the Government had to revalue those houses. Endless millions of dollars—\$129.8 million—spent. One person was given \$41.4 million and he only produced 55 houses. Another one completed a certain number and he used gypsum board, which is an inferior piece of material that you use when you want to decorate somewhere inside. You do not use it as the wall. Therefore, this Government had to make a change when we came. I have to educate, remind or inform.

La Horqueta: \$251.9 million was given for that contract. Final cost of project \$308.4 million. So an overcost of \$56.5 million. Besides that, terrible roads; the sewer system, atrocious. Rains fall and the raw material is in the roads. Who is taking the beating? The National Alliance for Reconstruction, that had no part to do with the building of the roads; no part to do with the drainage; no part to do with the sewer system; no part to do with the kinds of houses that were built.

Maloney: *[Interruption]* We would talk about that another time. Do not get anxious. I did not interrupt you when you were speaking. Behave yourself.

Maloney: \$292.8 million was spent to build those. Final cost, \$345,547,257. Overrun, \$52.7 million. Twenty-one high rise buildings and their floors are resting on each other. Today we are renovating, we are repairing. We are trying to handle that situation. You have a friend who—is it your friend or your cousin?

**Sen. Mark:** Who is that?

**Miss Nicholson:** Who said that you cannot say when we would have earthquake. We had a serious earthquake.

*[Laughter]*

I had to hide too. You have to understand certain fundamental weaknesses. Dormitories, jails, if you visited them when we came in here, you would have met hundreds of children; five, six, seven, sitting on walls, dreaming. No schools, playgrounds or anything at all. Thousands of young people—over 50 per cent of the people living in these areas—were lifted; their roots taken up from

where they came. They might have been from Laventille or Morvant and so forth, and just carried and launched there. What do you expect?

**5.30 p.m.**

We must have what we have today in the country; we must have the social problems which we have in the country today. Who is addressing them? The National Alliance for Reconstruction is addressing them. We are addressing them. Maloney: playground, hard courts; we have lit up the whole place because the ladies complained very, very vociferously about what was taking place with rapes and those kinds of things in those areas. Go up there and see it and tell the people the truth. I think I have given you enough. I will deal with you on another area with that.

We had to make those kinds of changes and this Government has a different policy from the last Government. It is so fundamental that all of us in the Senate and the total population must understand. It is a great programme. We were rammed and crammed in the high-rise. You go in here and you go in there and after you checked four or five years, certain people had not paid a cent. It was Minister so and so put me in here, and Minister so and so put me in there. I am not calling any names. I will deal with that at another time.

What is the Government's policy? The Government's policy is one which eventually will be movement. Sen. Bahadoorsingh, we do have a plan. So even though we are here today, only to take care of these people perhaps for three years, it might be more, I do not know, because the population growth is so much that we cannot say that it will be resolved by a certain time. We are addressing the situation. Almost 3,000 building lots are there. Hundreds have been allocated to the people because what are we saying?

We are saying movements from the dependency syndrome to independence; movements to self-reliance; movements to self-esteem. When you purchase that piece of land even though the Government subsidizes it—and we do subsidize them, because we put roads, drainage and water, electricity; those programmes are subsidized—when those people come and they purchase that piece of land whether for \$15,000 or \$20,000 it does something to the individual and it will do something to the country called Trinidad and Tobago. That is number one.

Secondly, we do have a financial approach. The Government is functioning really as a facilitator and an enabler. The Government does not have to build

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

houses. There is a strange cultural argument in Trinidad and Tobago that government must build every house for the people. Of course, there are certain people who will never be able to build their homes. We know that we have to take care of such people. Any government would know that. Of course, a new government coming in, you will take a little time before recognizing certain things and then will address them, but the fundamental point which I am making is that no government can do that.

Billions of dollars squandered. When I went into the ministry, at least, I instructed the institution to push down over a dozen houses at La Horqueta. Why did I instruct them to do that? Every time people were sent into those houses they had to run outside. It was water all over the houses and floors and mildew all over. One had to take action because one could not make use of them. They could not have been repaired. Different contractors were sent to look at them. Some of them are up there still. At present, one of the senior engineers in the National Housing Authority is addressing the whole business of the sewer system and the drainage which were put down at La Horqueta.

If we really go to analyze this country, many people must hide. I do not know them, but they will have to hide. Those who were given the contracts, those who were the consultants. It is atrocious to see what they allowed to happen in this country; billions of dollars went down the drain. Today we are functioning on pennies. We are fighting. We are fighters. I am a fighter. I do not know about the others.

What are we doing? We now have a financial approach. How do we deal with that? That financial approach is that certain concessions were given to the financial section of the community, and because of that people are able to get loans of up to \$250,000 at 8 to 9 per cent, instead of what Sen. Mark argued, 12.5 to 16.5 per cent. They are able to get those loans. To date, roughly 1,000 persons have already received loans in that programme under the approved mortgage companies. What does it mean? It means that when you get your loan you can either build a house, or purchase a house. The programme is really for first-time owners. This is the approach.

Secondly, this year we have \$5 million that was given under the budget to the National Housing Authority. There is an agreement between the National Housing Authority and the Trinidad and Tobago Mortgage Finance Company, and the people will be the real low-income people and they will be able to get loans up to a



ceiling of \$70,000, and the interest would be 8 per cent. After they have built their homes, they will have a one-year moratorium period before starting to repay the loans.

That programme was done like that because we had to do it similar to the IDB Government programme, which we also have and is also under the Trinidad and Tobago Mortgage Finance Company. Their programme also has a ceiling of \$70,000 and it is in the same direction. It was done like that so that there will not be a certain sector saying that we are discriminating over here, while over there you can get it in a certain way. That is the way you function. When you get your lands, you can get your money and build your home.

You have the situation where you can use the Self-Help Programme. We have plans in NHA. IDB has also drawn plans where the people can purchase at a very cheap rate and go ahead and build their homes. Under the IDB programme, I must say that was a very tedious and hard job and we took approximately two and a half years to get that loan. The loan is something like US \$61.2 million and we are now dealing with the first batch of land development in that programme:

Bon Air West      820 lots  
Couva North    500 lots (approx.)  
Harmony Hall 500 lots (approx.)

So when we are finished with those three, we are over 2,000 and higher, at least more than half of what we are dealing with the IDB, and these people will be able to get the loan I am talking about. So we have an approach. What we are struggling to do is move our people away from that dependency scenario.

**5.40 p.m.**

I want to stress that what is beautiful about the programme is that you are building your own house. When you build it, that individuality comes in there so that if two Senators have the \$70,000 to build their homes, each will have his own design and will just feel good to stand back and look at that house and enjoy what he has done which is very, very, important as against cramming the people into the high rise. I am not saying that we do not have to use high rise. We have to use high-rise buildings, particularly in the urban areas. For example, in the Port of Spain East area, because the lands there are limited. Right now, we have a 24-flat building going on at Bart Street. The second one should start at the end of October. That is Mahabir Lands, 48 flats will be in that building.

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

I always hear the words: “we have never built a house”. I met some half-finished buildings and it is this Government that completed them, that is Powder Magazine, Phase II and Embacadere, and we have already put people into those buildings. So that is nonsensical talk. I just point out that under the approved mortgage over 1,000 people got loans. So what does that mean? We have provided homes for over 1,000 people. You go up to Edinburgh 500, you will see over 200 houses being constructed there; you go to Malabar, you will see over 150 homes being constructed there; you go to Boys' Lane, D'Abadie, over 40 buildings are being constructed there and I can send you throughout Trinidad because it is now rolling and the people are seeing the flowers and they will allow us to eat the fruit.

So we have the land development, Mr. President. We have an approach and all over the world, this is the change that is taking place because all over the world most governments are recognizing that they are really losing out and the governments' money is just being squandered and, therefore, all the governments are moving to that enabling and facilitating approach. Also, they recognize the good it will do to their population; what it will do to their people.

The moral fibre of Trinidad and Tobago is torn apart. When I used to go up to Maloney and La Horqueta, I used to feel sad. The first time I went to St. Paul Street I almost cried when I saw the young people crawling out from the doors; and you saw zombies. You knew what they were involved in. You knew they were broken. You knew they were lost in a totally—in an area they used to say was PNM. I am not talking politics here today, but an area they said the other side controlled but the people were totally dependent on something called DEWD. As I looked at my people, I asked myself, “what can I do to help?” And I saw a building with a forest in it and as I investigated, I recognized that it was a multi-purpose building which they were calling a gymnasium. For 17 years, they could not complete it and it took the Government of the National Alliance for Reconstruction one year or one and a half years to complete that building so that the people of St. Paul Street, Port of Spain South and Port of Spain East and environs could make use of it, not only for sports but the YTEP Programme and all kinds of programmes, to lift our people out of the dilemma in which we found them. When I sat here and heard Sen. Wade Mark, I felt grieved to listen to him because when you listened to him, you were wondering: Is he some 20 years backwards in Russia and all those countries—a young dynamic-looking Senator, who should be progressive and moving forward for the advantage of Trinidad and Tobago?

We have the land development, we have the financial programme. What else do we have? We came in here and we met over 20,000 persons squatting on state lands. At first I used to say I want my piece, but then I recognized that I really have to control myself and have discipline if I am to be a leader. I cannot go and tell them I want my piece too and go and build my house; I had to work with them to help them. Over 20,000 persons were squatting on state lands; over 25,000 persons squatting on private lands. Mr. President, if you buy 10 acres of land and you just disappear from here for two years, when you come back, you do not have any lands, you know. You have to organize how you are going to deal with the tenants on the lands whether they are legal or illegal. We met that situation. We recognized that we could not take tractors and just push down these people's houses. We had to be humane. We had to be caring as we say, and we are, caring as we say. The first government to go out into the field, to meet the people and to articulate a programme and to start to develop a programme to resolve that situation, is the Government of the National Alliance for Reconstruction. We are out there with them.

**5.50 p.m.**

The last piece should be coming soon and I only hope that the Senate will give us 100 per cent support when we get here because that is the last, and then I will be ready to just give out the deeds. Because when they get their land tenure, again, what I pointed out earlier, that question of self-reliance, of self-esteem, of fulfilment, of pride, and of joy will come out and I have been showing you on the television. I did it twice already and I will show it a million times until I get the UNC and the PNM to understand it. I know the Senators understand the problems that confront us and what we have to do. They know we cannot push down people's home and we have to care and understand.

**Sen. Rampersad:** Thank you very much for giving way hon. Minister. But you mentioned that we cannot push down people's homes. Why could we not use the demolition squad for doing so?

**Miss Nicholson:** I would not go into that discourse because you see I want to show you that we might reach that stage. I am being very clear. I level with the people. The whole question of containment is also being discussed with the people and as we meet them and talk with them we say: "You have to be the watchmen on these lands. You cannot entertain any more people coming here because we have had land development programmes so that if anybody wants a piece of land,

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

that person should be able to purchase it from the National Housing Authority.” That is why we have developed it because we know we are dealing with the squatters and that we have to be able to address the situation in the other way.

So you pay down your \$1,000 and through the sou sou concept, you pay down every month and keep paying until you have completed. Then you can get your lands. So I just want people to understand. The National Housing Authority is dealing with over 5,000 people; under the IDB programme we are dealing with 2,600 in the squatter regularization programme. This month we will start developing Maturita and Bamboo Settlement. Those are in the first batch.

The other one that we were supposed to deal with was Bagatelle, but as usual, politicians always spoil things. I am a politician but I deal with people as people. We were going beautifully at Bagatelle with the people but somebody came, won a seat there and spoiled the whole thing. The people of Bagatelle are now coming in to us because they recognize that what we are doing is something for their advancement. So while these other people are living in their nice homes in Glencoe and in Goodwood Park they are interfering with the low income people. They do not know anything about community work, social work, caring for people and that kind of thing, but then you hear them talk about crime. If you do not attend to the people and if you do not give them that social development that they need, how are they going to develop? So that area also was supposed to be in the programme but two are in the programme because when we went to do— *[Interruption]* Your PNM cousin.

Chief, I have a beautiful cousin. You see my leader comes from Tobago and he is the Leader of the party and he is the leader of the Government of Trinidad and Tobago. You all seem to have a problem with the smaller island. I do not know why. It is very saddening. Sometimes I sit and wonder, two islands; a twin-island state, brothers and sisters—

**Dr. Persad:** Mr. President, on a point of order. The Minister is imputing improper motives to me. I have never said I have a problem with the smaller islands. She should withdraw the comment or prove it. Get evidence to show.

**Mr. President:** The Leader of the Opposition in the Senate says he has no problem with Tobago being a part of Trinidad and Tobago.

**Miss Nicholson:** Seeing that he has no problem with Trinidad and Tobago I could proceed. Thank you, Sir.

Now, you know I felt very sad here this afternoon when I heard Sen. Mark talking about draconian, wicked and unpatriotic. What I have outlined here hon. Senators, is this draconian? Is it wicked? Is it unpatriotic? Do you want a more beautiful programme than what we are doing in this country? The people are proud, happy. They tell us that. We have some politicians battling below, but they cannot penetrate. Not when I am present. Mr. President, the point I want to make here this afternoon is that the arguments that are being made against the Government and the programme, I do not concur with those arguments.

I also heard Sen. Mark talk about people who have problems with the 16.5 per cent interest rate. I want to say that the Minister of Finance and myself had meetings twice with the financial sector of the country and, they assured us—and they were doing it—that they are dealing with individuals one by one, as far as their problems were concerned. I assure Sen. Wade Mark that we have dealt with that situation and that the financial sector assured us that they were dealing with it. As individuals had a problem, they wrote then, they went in and they addressed their situation because we spoke to them very seriously. Both of us discussed the matter seriously. That is, with the individuals who are outside of the government programme, and I assure you we addressed that area. So we are not leaving out anybody.

I want to state here, based on the questions I have from Sen. Bahadoorsingh, I do not have my material here this afternoon, but I can send the material to him. I can do the research and send the material. He asked about how many properties were affected; what is the effect on property owners and that kind of thing. I can send the information to him.

I think Sen. Mansoor—Sorry Sir, I cannot remember it immediately, but I really wrote it down to try to answer the question he raised, but I know that one of his concerns is, how many buildings were put down in the country, whether private or public so that rental can be dealt with? Again, I do not have that material here today. I will have some work done on that and sent the information to him. I have no doubt that Mr. Beaubrun is a person who has experience in the energy sector, and Mr. Dash has worked his way up the ranks from Texaco, or whatever it is.

**6.00 p.m.**

I just want to state that approximately 100 flats were given out at Powder Magazine, Phase II, 352 were given out at Embacadere and we are now building a 24-flat building—that should be finished by Christmas—for those people there,

*Rent Restriction Bill*  
[HON. P. NICHOLSON]

*Tuesday, October 1, 1991*

and then we have another package that we are doing. But, basically, we believe that the people to whom we should attend in that direction should be the real low-income people. When I say the real low income, they would be lower than, what, perhaps, Sen. Mark would call the "new poor", or whatever it is. We feel we must take care of everybody. Because in every country you will have some people who will never be able to build homes and, therefore, you have to think about those people.

I must say, that, firstly, when I looked at our programme, I felt that it was unbalanced, in that, it mainly dealt with land development, and then we did some serious work looking at urban renewal and so forth, and afterwards we started doing the work that we are now doing at Bath Street, and the work that we are doing—

**Sen. Mansoor:** Mr. President, if I may just ask the Minister a question. Would she agree that there is a role for the private sector to play in the provision of rental units. If that is so, does the perpetuation of the Rent Restriction Act militate against that?

**Mr. President:** Will the Minister require much more time to wind up? If so, your time has expired and you will have to obtain an extension.

*Motion made, That the hon. Minister's speaking time be extended by a further 15 minutes. [Sen. P. Persad]*

*Question put and agreed to.*

**Miss Nicholson:** I agree with you, Sir, and we at the ministry agree that the private sector has a role. We were planning a programme this year; we were not ready, but we will be there next year, and very early we will be dealing with the private sector, having a proper conference, dealing with the role that the private sector should play.

I feel at this particular point in time, one has to consider the lowest income people, but I agree with you, that there is a very significant role for the private sector, because we were doing some work inside, but we were not ready, as yet, really, to meet the people. We feel that we must meet, not only the builders and so forth, but, you know, the people who import materials and have a serious seminar for two or three days, and then come up with a programme.

We were working on that, and I do agree with you, that the private sector—in any country, it is the private sector that plays the biggest role in building, the

private sector and the individual. What the Government usually does is really a drop in the ocean, Sir, and the private sector has a very significant role to play. But right now, I do not think that we are ready, and this is why I must say here, this afternoon, that I strongly support the bill to re-enact the Rent Restriction Act, Chap. 59:50, and to validate things done thereunder. I support the hon. Attorney General.

Thank you very much.

*Motion made and question proposed, That the Senate do now adjourn to Tuesday, October 8, 1991 at 1.30 p.m. [Sen. A. Lequay]*

#### **BUSINESS OF THE SENATE**

**Mr. President:** Before putting the motion for the adjournment, I have to inform the Senate, as Sen. Lequay indicated, Sen. Mark has obtained leave to raise a matter on the motion for the adjournment. Also, I have spoken to the leaders of the respective parties and groups in the Senate last week, and I asked them to inform their respective Members that we have some outstanding parliamentary business. There are reports from select committees and reports from joint select committees that are fairly important and I do not think it is right that committees appointed by the Parliament should report and just have their work languishing, sort of, and not dealt with.

I intend to appoint a special day to deal with those matters, most likely on a Monday. I will find out if next Monday will be suitable or the following Monday.

I now call upon Sen. Mark to raise the matter for which he has obtained leave.

#### **CONFLICT OF INTERESTS**

##### **(ENERGY SECTOR)**

**Sen. Wade Mark:** Mr. President, I rise to speak on a very important issue concerning what has been captured under the term "a grave conflict of interests in the energy sector of Trinidad and Tobago".

Mr. President, there is a covert, suspecting and irresponsible sell-out of this country's natural patrimony by a small clique with the willing connivance of the NAR Government.

According to an article written in the *TnT Mirror*, dated May 31, 1991, and entitled, "Beaubrun, Dash, not on easy street":

"The populace was informed that Anthony Beaubrun and Ben Dash, two of the main men in the rationalization of the energy sector, have opened up themselves to face serious accusations and Energy Minister, Herbert Atwell, seems to be attempting to fool the media. At a press conference last week, *Mirror* asked the Minister, 'Where does the personal interests of Beaubrun and Dash end, and the national interest begin?'"

Mr. President, as reported in the same *Mirror* article, these two gentlemen lied about the involvement of their company in the energy sector in the presence of the Minister. In 1986, 1987 and 1988 Trintoproc reports, one Mr. Anthony Beaubrun is described as a director of EASI Limited. However, in a recent information bulletin released by the Phoenix Park Liquid Removal Plant, this same person now describes himself as a Director of Economic, Analytical Surveys for Investment Limited.

Mr. President, searches have revealed that there is no such company as EASI Limited. This is a clear case of diversion and cover-up. However, the searches discovered the existence of a company named EASI for Industrial Supplies Limited. The major directors of this company are, Mr. Beaubrun and Mr. Dash.

A further search revealed another company, called Economic Analytical Surveys for Investment Limited, with the same individuals as major shareholders. There is another company named Trinidad Aggregate Products, (TAP), in which EASI for Industrial Supplies Limited and individuals, Dash and Beaubrun hold significant share-holdings. The Development Finance Corporation also holds significant shares in TAP. The records revealed that Economic Analytical Surveys for Investment Limited owns EASI for Industrial Supplies Limited.

Mr. President, the objects of these companies are to carry on business as merchant bankers, traders, commission agents, ship owners and, in particular, deal in caustic soda and all kinds of drugs—I believe, pharmaceuticals—chemicals, and acids. Only recently these two gentlemen reluctantly admitted that they were involved in the supply of an important chemical to a particular energy-based enterprise.

Mr. President, during the course of the last four years, these major directors and shareholders of these companies have been involved in negotiations on behalf of the people of Trinidad and Tobago, even as they occupied and they continue to occupy strategic positions in the state enterprises in the energy sector. I make reference here, Mr. President, to the National Gas Company, Trintomar, Trintoc



and Trintopec. What this manifests and demonstrates is a cabal of interlocking relationships and a graphic instance of control by a parasitic oligarchy in full flourish.

Mr. President, there are at least three instances I wish to bring to the attention of this House of the machinations of this clique and their sponsors which conflict with the national interest and which have resulted in grave damage to the country and an undermining of its sovereignty and independence.

I make reference, first of all, to the Natural Gas Liquids Recovery Project. Mr. President, there are many questions that we need to ask on this particular project. Why did the chairman of the National Gas Company take this country into a joint venture with Conoco, a wholly-owned subsidiary of Dupont, the petrochemical giant, despite the fact that Conoco's proposal was based on the removal of liquids from our natural gas as a soup, to be shipped to the USA to be processed for Dupont? This took place within one month of the chairmanship of the National Gas Company. Why was the plant sited in Mayaro? There is a report that recommended that the plant be sited in Mayaro, by the management of the NGC, and in the process save this country some \$3 million annually for the next 100 years, and prevent the Trinidad and Tobago Electricity Commission from shutting down, as it has been doing over the last six months in one instance. Mr. President, why was Conoco given a five-year tax holiday to take liquids out of the gas, which is a very rudimentary process?

**Sen. Atwell:** Mr. President, just on a point of order. As I understand Standing Order, No. 11, in the new Standing Orders, my impression is that the Senate has given leave of Sen. Mark to discuss a matter. My understanding of what he is doing now is carrying this debate and ranging it into asking a series of questions. My point of order is that, based on what I have before me, I am saying, Mr. President, that I think he is irrelevant.

**Mr. President:** I just want to remind you, Sen. Mark, the matter that you have stated is:

"There exists a grave conflict of interests between the senior directors of a number of state-owned enterprises in the energy sector, and the private interests of these same directors which could serve to compromise the national interest. This conflict of interests assumes even greater significance in light of the impending rationalization of the hydrocarbon sector and the formation of a holding company."

*Conflict of Interests (Energy Sector)*  
[MR. PRESIDENT]

*Tuesday, October 1, 1991*

You cannot drift from the particular subject. You cannot raise a multitude of things under one umbrella. You have to be specific to the question of the directorship.

**Sen. Mark:** Mr. President, I am seeking to develop the whole conflict of interests, and if the Minister could take his time and listen, he would understand, if he is operating in the national interest.

**Sen. Atwell:** The only point I am making is that you have begun to ask questions. Why was the plant sited in one place and why was it not sited in another place? All I was attempting to say is that is not related to what we are discussing, which is a conflict of interests. That is the only point I am making.

**Sen. Mark:** Mr. President, if you would allow me, I am trying to, as I said, raise some issues in the context of my motion, and I am saying that if the Minister has the interest of the country at heart, he would listen to what I have to say.

Mr. President, I have two more questions. I want to pose them and I will go on to some other matter. Why was the project never discussed at the National Planning Commission? Was it because these same directors—

**Sen. Atwell:** I must rise again, on a point of order. I am now saying that to come to raise questions about why projects were not raised at the National Planning Commission is, in my view, Mr. President, not dealing with the matter of the conflict of interests. That is the point I am making.

**Mr. President:** Sen. Mark, try to eliminate the frills, get down to the specific points that you have, dealing with the conflict of interest of the directors of the state-owned company.

**Sen. Mark:** Mr. President, I would like to go on to the second instance of this conflict of interests. It deals with the Inter-American Development Bank loan. Two Government Ministers, namely, the Minister of Finance, and the Minister of Energy, committed this entire country in a letter to the President of the Inter-American Development Bank, dated January 9, 1991, to a rationalization of the hydrocarbon sector, and the creation of a holding company, among other things. A rationalization report by Booth Allan Hamilton and Hamilton, was thrown out, and a steering committee on the rationalization of the oil industry was established. The present members of this committee are the Minister himself, hon. Sen. Herbert Atwell, Mr. Ben Dash, Mr. Anthony Beaubrun, as well as Mr. Trevor Farrel, among others.

Mr. President, both Mr. Dash and Mr. Beaubrun, are earmarked, as I understand it, for directorships when this holding company is established. The company would have, under its control, some \$10 billion. We now learn that Texaco Incorporation was a party to the recently concluded IADB loan contract. A senior Texaco employee, who was formerly a senior Texaco (Trinidad) Limited employee, now operating out of Coral Gables, Florida, and who looks after Texaco's interests in the Caribbean and Nigeria, is a close business associate of both Mr. Dash and Mr. Beaubrun, and holds major shares in EASI Industrial Supplies Limited, Economic Analytical Surveys for Investment Limited and Trinidad Aggregate Products, and there are other former Texaco employees associated with these same companies.

Mr. President, I pose the question: Is there a connection between this Texaco agent and the Government plan to work out an oil deal with Nigeria when the Prime Minister visits Nigeria shortly?

Mr. President, I go on to a third instance of interlocking relationships that could lead to a conflict of interests. It deals with the export of natural gas to Puerto Rico. This scandal was reported in the *Trinidad Guardian* of November 5, 1990, headlined, "TT's natural gas to power Puerto Rico". It was the subject of several reports in the international press, with no statement to the present time being issued by this Government. This export of LNG project would have been the largest project ever undertaken by any Government, to ship our gas to Puerto Rico. This deal was to be finalized, according to reports again in the *Guardian*, on March 31, 1990, according to the chairman of the National Gas Company.

This matter was not the subject of any discussion or study by the so-called National Planning Commission. Criticisms of the project revealed that the project as intended would have resulted in hundreds of millions of dollars being put into the pockets of a dubious company named Marine Gas Transport Limited. This company's only visible shareholder was one, Mr. William Simms, of Gunarson Capital Corporation, a fellow investment banker from San Francisco, who, according to a reputable international credit agency, never even invested in a "fowl coop", and here in Trinidad and Tobago, these two gentlemen were promoting this project, which must have had the blessings of the visible or invisible Government.

Mr. President, I want to indicate here that on the issue of this matter, this particular situation requires serious intervention on the part of the people and Government of Trinidad and Tobago. Mr. President, I pose the question: Did not

these interlocking directors know that when the Puerto Rican economy was converted to natural gas, within two years, its old refineries would have had to be shut down and a modern refinery built which could dump products on the Caribbean markets and undermine and sabotage the ill-conceived IADB loan involving the modernization and expansion of the 40-year old Trintoc refinery?

Mr. President, what is even more alarming is the recent misleading utterances by Amoco in respect of a looming gas shortage in Trinidad and Tobago. This is an obvious attempt on the part of Amoco to pressure this frail and dying regime to allow them permission to lay down a platform before the general election. It is this same Amoco, which was engaged in a secret plot with Dash and Beaubrun, to construct this platform in 1990, to export our natural gas to Puerto Rico. Was there no shortage anticipated then?

Mr. President, just last week we were informed by the hon. Minister of Health of alleged removal of tens of thousands of dollars worth of drugs by health-care workers on a weekly basis. He indicated that the Fraud Squad was called in. At the same time we are told by the Integrity Commission in its 1990 report, that matters involving conflict of interests, influence, insider-trading, carrying on business incompatible with one's public office, should be declared illegal.

Mr. President, this unattended conflict of interests scandal could be costing the people of Trinidad and Tobago hundreds of millions of dollars on an annual basis. If you look at the Integrity Commission's Report on this issue, and this is on page 16, reference is made to the fact that quite apart from obvious instances of fraud and criminal offences, there lies a wide field of dishonest and improper conduct which does not now attract any sanctions of the law at all. It is in this latter area that we consider that the main thrust of integrity legislation should lie. Basically, this area may be defined as being that field of endeavour in the conduct of public affairs, where a person may find himself in a position where his personal interests can be said to conflict with the duties of his office.

Our recommendation, therefore, is that comprehensive legislation should declare illegal the following:

- (1) Conflict of interests, where a person makes or participates in the making of a decision capable of, or calculated to further his or her private interests or for any oblique motive;
- (2) Insider trading, insider information;

- (3) Influence, acceptance of benefits, carrying on business incompatible with his or her public office, and disqualification of former Government Ministers and employees.

Mr. President, I believe that the time has come when we must read the riot act to these interlocking directors. This is nothing short of scandalous. What is absolutely required is nothing short but the immediate appointment of a commission of enquiry under the aegis of the Integrity Commission, and/or the immediate establishment of a joint select committee of Parliament, as advanced by the distinguished Opposition Leader some time last week in the Lower House.

Mr. President, we call on these gentlemen, who are conscious of their conflict of interests, to do the honourable thing on grounds of public morality, on grounds of integrity, to immediately resign their positions on the various state boards in the energy sector, which, today, conflict with their private interests, and which they use in order to promote their private interests.

Mr. President, I believe that this particular situation is reprehensible. It is an irresponsible abuse of trust and responsibility by a small clique in collaboration with this Government, aimed at selling out the nation's strategic resources to an unpatriotic group of carpet-baggers, like Mr. Simms, who are mere front-men for major national conglomerates and bag-men for foreign private national transnational interests.

Mr. President, this particular matter is extremely serious, and it warrants urgent action on the part of this Government if we are to avoid a catastrophe that could result in a total restructuring of this economy because of the antics and manoeuvres and machinations by a few men in the private sector, using state resources, using public assets, in order to fatten and line their pockets at the expense of the people of Trinidad and Tobago.

I thank you very much, Mr. President.

**The Minister of Energy (Sen. The Hon. Herbert Atwell):** Mr. President, I am alarmed that Sen. Mark can stand before this honourable Senate and make strong statements about persons who are not in a position to defend themselves. I really thought that Sen. Mark was coming to this Senate with information and/or evidence which would permit us to look at something which I thought was a serious matter.

Mr. President, what happened this evening, as far as I am concerned, is that he says there exists a grave conflict of interests, and I do not think that he has begun to prove that at all. That is my first point. He has submitted names of Mr. Beaubrun and Mr. Dash, principally, and he has said that they are directors and/or shareholders in certain companies. That is essentially what I understand him to be saying.

Now, I want to make it clear to hon. Senators, that I am not here in defence of Mr. Beaubrun and Mr. Dash. I am not here to do that. What I am here to do is to indicate to this Senate that the Government puts people on boards of directors, and the Government does so to the best of its knowledge, fully well appreciating that the people we are putting are patriotic people, who are willing to serve at their own time for a very small fee, because of skills that they have in the particular area in which they are put.

**6.30 p.m.**

Mr. President, I have two letters dated September 30, from Messrs. Dash and Beaubrun, respectively. I am not reading the letter. They say, "With regard to the question of conflict raised by Sen. Mark", so they expected that something would be said about them. Mr. Beaubrun says:

"I am a shareholder..."

**Sen. Mark:** Read it!

**Sen. Atwell:** You do not tell me what to do. I quote:

"I am a shareholder of approximately 2.7 per cent of the shareholding of EASI Limited, and a Director."

Sen. Mark said that he was a major shareholder, therefore, he was deliberately misleading this Senate.

**Sen. Mark:** Repeat that!

**Sen. Atwell:** You see, you must listen when I speak. I will do so. Mr. Beaubrun says:

"I am a shareholder of approximately 2.7 per cent of the shareholding of EASI Limited, and a Director."

**Sen. Mark:** Have you investigated that?

**Sen. Atwell:** Mr. President, Sen. Mark got up in this Senate and said that Mr. Beaubrun was a major shareholder. Mr. Beaubrun writes to us and I quoted what he said.

Mr. Dash says, and I quote:

"I was a 10 per cent shareholder, and a Director at the company's foundation, at which time I was employed with Texaco as a Senior Engineer in the Petrochemicals Division. In 1979, I relinquished my directorship of EASI and have remained off the board ever since."

*Sen. Mark rose.*

**Sen. Atwell:** Just one second, let me just finish the point.

**Sen. Mark:** The Minister of Energy is misleading the Senate. I have evidence to show otherwise. The Minister is reading what they say, he must investigate.

**Sen. Atwell:** I am reading what they said to me. I am misleading the Senate! Do you want to talk now?

**Sen. Mark:** Mr. President, I have evidence here to show, based on investigation, that November 26, 1990, that one Mr. Anthony Beaubrun had a total number of shares of \$7,000.27 in EASI (Economic Analytical Surveys for Investment Limited), That was up to 1990. Whether it was 01 per cent, 2 per cent, the fact of the matter is, that company is owned by them.

**Mr. President:** This is the problem when somebody gives in dollars and cents and somebody else gives in percentages. They both might be correct. Let us hear what the Minister has to say.

**Sen. Atwell:** Mr. President, the point is Sen. Mark knows little about things. Someone gave him something to read and he read it but he does not understand what he has read.

**Sen. Mark:** He thinks I am him!

**Sen. Atwell:** I am not reading anything. What am I reading? He has a problem, Mr. President, and perhaps I should address you.

I have letters, as I said, dated September 30, and I have read what the two gentlemen have said. They are saying that they are not major shareholders, as this Senate was told.

The point I want to make is that it is a propensity of Sen. Mark. We remember that he came to this Senate some time ago and attempted, when the Minister of Industry was here, to say that the Chairman of the DFC—and he made passing reference to it today—was involved in some kind of interlocking directorate and was involved with the General Secretary who had applied for a loan, and he is now—

**Sen. Mark:** That is a fact.

**Sen. Atwell:** He likes to give but he cannot take, and he will one day learn that the people who sit on these benches today, not only would we come back and sit in the next term but we do not deceive people.

I said it to him privately and I shall say it to him publicly. If Sen. Mark comes to me or to any member of this Government with anything which is serious, which shows that people are not respecting their offices, that there are areas of conflict, I would be the first to get up and join hands with him in attacking that situation, because we will not tolerate anyone whom we know is deliberately doing anything wrong. By the same token, I will not sit here and allow him to just attack people, whether it be the Chairman of the DFC, the General Secretary of the party or Mr. Beaubrun. Who is next?

**Sen. Mark:** You! I am coming to you.

**Sen. Atwell:** Mr. President, do you follow the point? They are using the Parliament to try to attack people's probity, but perhaps he might be in for some shock.

The other point is that when he raised the question, he talked about selling out by a small clique, diversion and cover-up. What are we covering up with the IDB loan? Sen. Mark has put 10 questions to the Minister of Energy, and they will be answered. We have laid all of the documents before the House and I do not understand what he is accusing the Government of covering-up. I do not understand it, because the documents have been laid in the House. He has asked questions, but they are not yet due for answer.

**Sen. Mark:** On a point of order. I indicated in my presentation that the gentleman who is the Chairman of the NGC indicated that he was a Director of EASI Limited. Record searches revealed that there is no such company as EASI Limited, and I referred to diversion and cover-up as far as that is concerned. If he is quoting me, I would like him to quote me correctly.



**Hon. Senator:** So long he is in the Senate, he does not know what is a point of order.

**Sen. Mark:** They are getting restless.

**Hon. Senator:** He is getting restless.

**Sen. Atwell:** You see, Mr. President, I think we are on a very important point. The important point is: To what extent will we continue to let Sen. Mark come here, from time to time, attacking public figures? I do not know if he has a problem with the people we are using in this sector. I do not know if he wants us to bring in foreigners to operate here. I do not know what he wants.

**Sen. Mark:** I gave three examples.

**Sen. Atwell:** I am dealing with conflict of interests. That is what I am dealing with, and he has not given me any example. What he has said is that Mr. Beaubrun has shares in whatever company, and Mr. Beaubrun says in the letter, that he has 2.7 per cent shares.

**Sen. Mark:** Shipment of gas to Puerto Rico.

**Sen. Atwell:** We are not discussing shipment of gas to Puerto Rico.

Mr. President, Mr. Beaubrun, in 1987, became the Chairman of the NGC, and his letter says that he was a Director of EASI from its inception. That is the important point.

Mr. Dash is the Chairman of Trintomar and he was appointed to that position this year. Mr. Dash was also a Director of EASI up to 1979. I quoted for you the letter which he wrote. That is what I am focussing on. I am not dealing with export of gas to Puerto Rico. Now is not the time to deal with that.

**Sen. Mark:** You are fronting for them.

**Sen. Atwell:** Well, if you think I am fronting for them, you know what you can do about that.

The point is, anyone can get up and say anything about anybody in the Parliament. There is no *audi alteram partem*; Mr. Alexander did not hear; they cannot defend themselves, so you have a field day.

I cannot, so to speak, bat for Mr. Beaubrun and Mr. Dash, but I thought that this evening he was coming with something that I would have been in a position to

*Conflict of Interests (Energy Sector)*  
[HON. H. ATWELL]

*Tuesday, October 1, 1991*

investigate, something that had not been brought to the attention of the Government, but he has done no such thing. All he has done is to just use the Parliament, say a set of things, use a set of strong language, try to get some headlines using sensational words, and as far as I am concerned, he has not produced one iota of evidence. In fact, what he has done in the eyes, not only of the Senators—I think they see him for what he really is. I do not think that he has served his cause any good today.

Mr. President, I do not have any other rebuttals to make. People will be free to say what they want. As I have said, if he wishes to bring anything properly to the attention of the Senate or to the Government, we will deal with it, but I do not think he has raised any matters. He has tried to introduce the Phoenix Park matter and the IDB matter. I will deal with his questions at the appropriate time. I really cannot think of any other response which is necessary at this stage.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.42 p.m.*