

**SENATE**

*Wednesday, May 20, 2020*

The Senate met at 10.00 a.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. Sophia Chote, SC, and Sen. Deeroop Teemal, both of whom are ill.

**ARRANGEMENT OF BUSINESS**

**Madam President:** Hon. Senators, I am awaiting the instruments of appointment so with your leave we will treat with this matter later on in the proceedings.

**PAPERS LAID**

1. Annual Report of the First Citizens Depository Services Limited (formerly First Citizens Asset Management Limited) for the year ended 30<sup>th</sup> September, 2019. [*The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Administrative Report of the Arima Borough Corporation for the period 2018–2019. [*The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein)*]
3. Ministerial Response of the Ministry of Education to the Thirteenth Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into the Prevalence of Teenage Pregnancy and the State's Capacity to Minimise the Occurrence of Teenage Pregnancy and Provide Services and Assistance to Teenage Parents. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]

**UNREVISED**

**URGENT QUESTIONS**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I would be answering question one. For question two, we would need it to stand down for a while until we get the response.

**Madam President:** Sure. Sen. Mark.

**Sen. Mark:** That is question one, I can go to question—

**Madam President:** Question No. 1—

**Sen. Mark:** Has been delayed?

**Madam President:** Yeah. The Minister has indicated he will answer question No. 1.

**Sen. The Hon. F. Khan:** I would answer question No. 1.

**Sen. Mark:** And what about question No. 2?

**Sen. The Hon. F. Khan:** I stand corrected. Minister Rambharat will answer question No. 2, so we are fine with Urgent Questions.

**Madam President:** Sure, so both questions would be answered. Okay. So I am resetting the clock, Sen. Mark.

**Paria Fuel Trading Company****(Shipment of Fuel to Aruba)**

**Sen. Wade Mark:** Thank you, Madam President. To the Minister of Energy and Energy Industries: Given the Aruba Government's denial that it purchased a shipment of fuel from Paria Fuel Trading Company, can the Minister advise whether the Trinidad and Tobago Government intends to take any action against the company's board and senior management?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. Madam President, let me start by saying, as per the UNC, this question is the definition of mischief. Paria Fuel

Trading and the Government by extension never said that it sold fuel to the Aruba Government. We sold fuel to a trader, ES Euro Shipping, a company registered in Switzerland, whose final destination of the cargo was Aruba. At no point in time did the Government say it sold the fuel to the Aruba Government. The question that was posed by the *Guardian* yesterday to the Dutch embassy is also misleading. The embassy's response was obviously right. The Aruba Government purchased no fuel from Trinidad and Tobago. Yesterday Paria Fuel Trading issued a full-page ad with a press release in all three newspapers outlining the details of the transaction. Nothing is clearer than that.

To go further, Madam President, in the days when Petrotrin sold fuel to Aruba it was never even sold to the Aruba Government, it was sold to traders because it is a trading business; governments do not involve themselves in that. So this question, as I said, is the definition of mischief. But let me conclude by saying, this mischief has consequences. It is undermining Paria's business. Paria is a trading company. The trading environment is sensitive. Heritage is also a trading company. Heritage has its fuel, its crude marketed through traders and they are all affecting these companies and the viability of the companies.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, can the Minister outline whether Paria Fuel Trading, that according to him sold the oil or gas to this particular company based or registered in Switzerland, can the Minister indicate whether Paria Fuel Trading Company conducted a proper due diligence before the gasoline was sold to this company from Europe, based or registered in Switzerland, as you have claimed? Could you tell this Parliament whether this was done?

**Madam President:** Sen. Mark, no need to repeat the question, it is not allowed. Next question, you have another supplemental.

**Sen. Mark:** Madam President, could the Minister indicate exactly and precisely how these questions or questions that these are undermining the viability of Paria Fuel Trading Company Limited?

**Sen. The Hon. F. Khan:** Well, I am glad for that question, Madam President. The trading businesses are serious business. Confidentiality is the essence of this business. You are trading on a spot market, you are trading on spot purchases, you are trading on long-term contracts; price is sensitive, source of fuel is sensitive. Everybody knows of the US sanctions, and by implying that Trinidad is breaking US sanctions hurts the business because oil companies are sensitive towards that narrative, and to propagate that narrative is hurting Trinidad when there are absolutely no factual bases to so justify. And it could impact, I am not saying it has impacted, on Paria's trading business in the Caricom and in the Caribbean.

It could impact on Heritage's sale of crude, because who Heritage sells crude to? Traders, Trafigura, Shell trading, BP trading, and a series of other traders in the Caribbean. Heritage fuel goes where?—to the US Gulf Coast refinery. Heritage crude goes there. Where does Paria source its fuel from?—the US Gulf Coast refinery. So the narrative of the UNC is a deliberate attempt to undermine the economy of Trinidad and Tobago. [*Desk thumping*]

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

**Sen. Mark:** I think your Government is undermining Trinidad and Tobago.

**Madam President:** Sen. Mark, next question, please. [*Crosstalk*] Sen. Mark, next question.

**Sen. Mark:** “Doh geh me upset, yuh know.”

**Madam President:** Sen. Mark, do not waste the limited time that you have.

**Sen. Mark:** Sorry. Sorry. [*Crosstalk*]

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

**Sen. Mark:** I looked at you, Madam President, and nobody else.

### **Tobago Food Card Distribution**

#### **(Details of)**

**Sen. Wade Mark:** Madam President, to the hon. Prime Minister: In light of recent reports that food cards were being distributed illegally in Tobago, can the Prime Minister advise whether an investigation has been launched into this matter?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, thank you very much. [*Desk thumping*] Madam President, the Ministry of Social Development and Family Services has responsibility for the administration of the food support programme nationally, and that includes the temporary food support measures being implemented in response to COVID-19. Madam President, the Ministry of Social Development and Family Services has received no reports relating to the illegal distribution of food cards in Tobago. Notwithstanding, Madam President, all matters of impropriety in the administration of the social support services, in particular, those relating to COVID-19, would be thoroughly investigated once these reports are received by the Ministry, and anybody found in wrongdoing would be required to be dealt with by the Trinidad and Tobago Police Service. I thank you, Madam President. [*Desk thumping*]

[*Electronic device goes off*]

**Madam President:** I am hearing someone's cell phone. Can you all not give me a gift for one day, please, and just not let a cell phone go off? That is a gift to me. But can the Senator whose cell phone it is, please leave the Chamber. Please leave the Chamber. You can return in 10 minutes' time. Sen. Mark.

**Sen. Mark:** Madam President, I thank you. Can I ask the hon. Minister whether the Ministry of Social Development and Family Services is in contact with their

counterpart in Tobago given the reports that appeared in both the dailies today as it relates to this illegal activity? Has there been any communication, Madam President, between the parties?

**Sen. The Hon. C. Rambharat:** Madam President, I think I have answered that. The Ministry of Social Development and Family Service has received no reports regarding this issue or allegation of fraud or illegal activity related to food cards.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, given the reports that are in the newspapers, can the Minister indicate whether the Ministry of Social Development and Family Services intends to conduct any enquiry or investigation into those allegations of illegality in respect of the distribution of food cards?

**Sen. The Hon. C. Rambharat:** Madam President, I am almost certain that I also answered that part of it. I said, notwithstanding having not received any reports, the Ministry of Social Development and Family Services will investigate all matters that come to their attention, as they have been doing, and would ensure that the appropriate action is taken. Thank you.

### ORAL ANSWERS TO QUESTIONS

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, we would be answering questions 106 and 107, and we ask for a deferral of Question Nos. 78 and 97 for two weeks.

**Madam President:** Question No. 97 is deferred for two weeks.

*The following questions stood on the Order Paper in the name of Sen. Wade Mark:*

#### **Tobago Regional Health Authority**

- 78.** Given the return to work of seven Tobago Regional Health Authority (TRHA) employees, who were sent on administrative leave in March 2019

pending the completion of an independent payroll audit, can the hon. Prime Minister indicate the following:

- (i) whether the said payroll audit has been completed; and
- (ii) if the answer to (i) is in the affirmative, can the Senate be provided with a copy of the audit report?

**Heritage Petroleum Limited and Paria Fuel Trading Limited**

**(Staffing Details)**

**97.** With respect to Heritage Petroleum Limited and Paria Fuel Trading Limited, can the hon. Minister of Energy and Energy Industries indicate the following:

- (i) the names of the persons who hold the positions of, or are acting in the positions of Chief Executive Officer and/or President, in each company;
- (ii) the names of the persons who hold the position of, or are acting in the position of Chief Financial Officer, in each company;
- (iii) the total compensation packages of each of the persons identified in (i) and (ii) above; and
- (iv) the recruitment process used to hire each of the persons identified in (i) and (ii) above?

*Questions, by leave, deferred.*

**Victims of Domestic Violence**

**(Measures to Protect)**

**106. Sen. Wade Mark** asked the hon. Minister of National Security:

Having regard to the number of murders arising out of incidents of domestic violence, can the Minister advise as to what new initiatives are being taken

by the Government to protect the lives of women who are victims of domestic violence?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, the Government of Trinidad and Tobago through the Commissioner of Police has launched the Gender-Based Violence Unit within the Trinidad and Tobago Police Service, and this was done on January 21, 2020. Madam President, this unit comprised 30 police officers who are distributed through nine policing divisions and the unit is tasked with the objective of protecting the lives of all victims of domestic violence.

Madam President, in order to achieve the mandate of the unit, the unit has implemented several key initiatives, including:

1. Conducting sensitization and outreach programmes relating to domestic violence and breaches of protection orders, in particular, in partnership with Government Ministries, civil society groups and NGOs;
2. The unit is involved in the training of officers, both locally and abroad, in the area of domestic violence investigations;
3. The unit has employed a case management model in dealing with victims of domestic violence which ensures follow-up with both the victim and the perpetrator on an ongoing basis;
4. The unit has been emphasizing the objective of protection orders to perpetrators and the consequences of breaching such orders. The unit is working with perpetrators, as I have said before, and assists them in understanding their role in the relationship and how they could work towards healthy conflict resolution;
5. The unit has been assisting victims of domestic violence with ex parte applications for protection orders, and once an application is granted the



- police officer serving such an order would then read and explain to the respondent ensuring that they clearly comprehend the order;
6. The unit has been providing referrals to victims of domestic violence, and in some cases to the offenders to the Trinidad and Tobago Police Service Community Policing Unit and Victim and Witness Support Unit for psychosocial interventions;
  7. Madam President, the unit has also been providing security to victims of domestic violence; and
  8. The unit has been providing transport, safe transport, to the victims to places of shelter and other places where they wish to travel without risk.

I thank you, Madam President.

**Madam President:** Sen. Mark.

**Sen. Mark:** Yes, thank you, Madam President. Madam President, can I ask the hon. Minister through your good self, what impact, if any, these initiatives outlined by the Minister have had in reducing the incidence of domestic violence? Can you share with this honourable Senate?

**Sen. The Hon. C. Rambharat:** Madam President, this is one initiative, and it is in response to the specific question, but previously I have indicated, and my colleague, the hon. AG who recently passed the electronic monitoring legislation in this House, which is another element of the response to domestic violence, and throughout that debate it was emphasized that this electronic monitoring will work for both victims and perpetrators. Madam President, the Government has also spoken about changes to the domestic violence legislation and we are in fact nearing the end of that draft, and we will shortly lay that Bill in the Parliament and of course expect support from all our colleagues in this House. The unit itself was formed in January, there is no doubt that it has conducted the outreach that I have

spoken about, increasing sensitization, making people more aware of what is available to them. And over a period of time, Madam President, with the combination of all the measures we expect to see on the one hand a decrease in domestic violence but on the other hand an increase in the work of the police in ensuring that victims are protected and the law is carried out in relation to perpetrators.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, can I ask my hon. colleague if he can share with us the number of referrals to our victims and offenders or accused involved in domestic violence in respect of psychosocial assistance? Can the Minister share with us what are the numbers involved? Does that Minister have that information to share with us?

**Madam President:** Sen. Mark, I would not allow that question. Next question, Sen. Mark. Next supplemental, if you have one.

**Sen. Mark:** No, I do not.

### **Protection Order Breaches**

#### **(Details of)**

**107. Sen. Wade Mark** asked the hon. Minister of National Security:

Having regard to the number of protection order breaches, can the Minister provide the following information:

- (i) the number of orders that are in effect as at January 31, 2020;
- (ii) the steps being taken by the authorities to prevent further breaches;  
and
- (iii) whether it is the intention of the Government to introduce electronic monitoring bracelets for those against whom protection orders have been granted?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you very much, Madam President. Madam President, in response to part (i) of the question, as of January 31, 2020, there were 1,421 protection orders in effect. Madam President, in response to the second part, I can easily ask my colleague to take note of what I said in relation to question 106. But, Madam President, in addition to what I have already said, I would say that in order to prevent further breaches the Trinidad and Tobago Police Service has been conducting sensitization activities across the country, using resources of Ministries and civil societies and community organizations, and in particular the police service has been, through the unit which was formed in January 2020, the police have been focusing on this issue of the protection order, and when the protection order is granted that the victim, or in some cases the perpetrator, needs to be following up with the police and need to be communicating with the police, in particular when there are issues in relation the personal safety.

I have also said, Madam President, that police officers respond to requests for transport and there is an issue of safety in relation to the victims. And one of the main things the police officers have been emphasizing in relation to this, Madam President, is the need for the victims themselves to keep their whereabouts, when they are in a protected environment, to keep their whereabouts a secret, because it has been known, Madam President, in our culture that sometimes the victims themselves reveal their locations and bring harm upon themselves when they do so. So that is something that the police has been emphasizing that when you are in a protective arrangement it is important that the location is kept a secret, and the police provides support in providing the transport.

Madam President, as I said before, when the order itself is granted the police take it upon themselves to explain to both the victim and perpetrator, the terms of

the order, the consequences of breaches, and again, Madam President, they need to ensure that both parties adhere to the terms of the order, in particular those provisions which relate to restrictions on the distance that they must keep from each other. Madam President, there are several other measures, some of which are outlined already, but these are the key measures that are being taken to ensure that the victims are protected and the perpetrators understand their role in relation to the law.

**Sen. Mark:** Madam President, can the Minister explain (iii) in the context of when would the electronic monitoring bracelets be introduced, because he did not answer part (iii) of the question?

**Sen. The Hon. C. Rambharat:** Madam President, I apologize to my colleague for not answering (iii) which would mean repeating what I said before. Now that the law has been passed, the recent amendment to the law has been passed, I think my colleague, the hon. Attorney General has been out there publicly, alongside the Minister of National Security saying that the Government intends to give effect to the law by implementing the legislation via the use of the electronic monitoring bracelets, and I think that is a commitment that the Government has given. It has attracted a lot of mischief from my friends on the other side of course, but it is something that the Government is committed to doing and that is why we passed the amendment to the legislation.

**Madam President:** Sen. Mark.

**Sen. Mark:** The hon. Minister referred to a number of community organizations involved in the sensitization programme. Can the Minister indicate how many community organizations have been involved in this sensitization exercise, Madam President?

**Sen. The Hon. C. Rambharat:** Madam President, the simple answer is that I

cannot indicate how many have been involved.

**Sen. Mark:** May I ask the hon. Minister to make that information available to this honourable Senate. And may I ask, Madam President—

**Madam President:** That is one thing.

**Sen. Mark:** Yeah, well that is just a follow-up in terms of the fullness of the question, so I am just asking the formal question now. Madam President, can the Minister indicate to us which communities in Trinidad and Tobago have been involved in these sensitization initiatives in an effort to deal with breaches of protection orders?

**Madam President:** So you have to choose one of those two questions. One question was, will the Minister provide the names of the community organizations and then you went on to a second question, so choose one.

**Sen. Mark:** All right, well that is the first question.

**Madam President:** The first question, Minister.

**Sen. The Hon. C. Rambharat:** Madam President, within the next week I will provide the information which is the list of non-governmental organizations which have participated in the sensitization and outreach work related to domestic violence being conducted by the police service. [*Crosstalk*]

**Madam President:** No, I think that is it. [*Crosstalk*] You have one more.

**Sen. Mark:** One more?

**Madam President:** You have one more. Yeah.

**Sen. Mark:** Thank you. Madam President, may I ask my hon. colleague and Minister whether he would be kind enough to supply this Parliament, possibly in writing if he does not have the information, the list of communities that are involved in this very important initiative outlined by the hon. Minister? Madam President, a list of communities and organizations, NGOs, so I am just asking him

just as how he—

**Madam President:** Yeah, I get it. Minister.

**Sen. The Hon. C. Rambharat:** Madam President, I undertake to do so not out of kindness but out of duty, sense of duty, because the police service has been doing an outstanding amount of work, and I know that my friend is anxious to see it because sometimes he has this false impression that nothing is being done. And it is just anxiety on his part, Madam President, to see the great work that the Government and the police service is doing, [*Desk thumping*] and I undertake to providing him with the list of communities in which this excellent work is being conducted.

### SENATORS' APPOINTMENT

**Madam President:** Hon. Senators, I have now received the instruments of appointments so I am going to treat with that at this stage:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MS. ZOLA L. PHILLIPS

WHEREAS Senator Sophia K. Chote S.C. is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago,

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do hereby appoint you ZOLA L. PHILLIPS to be a member of the Senate temporarily, with effect from 20<sup>th</sup> May, 2020 and continuing during the absence of Senator Sophia K. Chote S.C. by reason of illness.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 20<sup>th</sup> day of May, 2020.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: Mr. Josh Drayton

WHEREAS Senator Deeroop Teemal is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOSH O.W. DRAYTON to be temporarily a member of the Senate with effect from 20<sup>th</sup> May, 2020 and continuing during the absence of Senator Deeroop Teemal by reason of illness.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.

**UNREVISED**

Ann's, this 20<sup>th</sup> day of May, 2020.”

### **OATH OF ALLEGIANCE**

*Senators Zola L. Phillips and Josh Drayton took and subscribed the Oath of Allegiance as required by law.*

**10.30 a.m.**

### **STANDING ORDER 27(15)**

#### **(INVOCATION OF)**

**Sen. Wade Mark:** Madam President, I would like to invoke, as it relates to the first question on the Order Paper which was deferred for two weeks, Standing Order 27(15).

**Madam President:** So the Standing Order will be invoked in respect of question No. 78.

### **STANDING ORDER 30(2) MOTION**

#### **(SENATE PRIVILEGES)**

**Sen. Wade Mark:** Thank you, Madam President. In accordance with Senate Standing Order 30(2), I hereby seek leave to raise a matter directly concerning the privileges of the Senate. The matter involves statements made by the hon. Minister of National Security in response to an Urgent Question posed at a sitting of the Senate on Wednesday, May the 13<sup>th</sup>, 2020.

As you may recall the following Urgent Question as approved was read:

“To the Prime Minister:”—and I quote:

“In light of a recent statement issued by the US Embassy that this country violated the Rio Treaty by allowing the Venezuela Vice-President to land here, has the Government initiated discussions with the US with a view to averting any repercussions?”

The hon. Minister of National Security gave his response which prompted



the following supplemental question, and I quote:

“Madam President, can the...Minister indicate whether the Government of Trinidad and Tobago is conscious of a statement issued by the”—US—  
“Government concerning this country’s violation of the Rio Treaty? Is the Government of Trinidad and Tobago aware of the issuing of such a statement by the”—US—“Government?”

The Minister accordingly responded, and I quote:

“As I have said, Madam President, we continue to have open channels of communication. In fact, last week the United States Government’s head and top diplomat in Trinidad and Tobago, that is, the Ambassador, not any underling who may or may not be speaking to the media, the”—US—  
“Ambassador had a conversation with me, as a representative at the Cabinet level of the Government, and there were other conversations had and there was no raising of the breach of any treaty. I”—would—“just put the position that all that seems and all that they seem to anchor their mischief in may not be exactly what they believe it to be.”

Subsequent, by press release dated May the 19<sup>th</sup>, 2020, the United States Ambassador Joseph N. Mondello issued the following statement, and I quote:

“Normally I do not comment on private conversations with host government officials.

Since the government has spoken publicly about my May6 conversation with Minister Young, though, I wish to affirm that I expressed concern to the Minister in that conversation about the consistency of Delcy Rodriguez’s visit to Port of Spain with Trinidad and Tobago’s obligation as a party to the Rio Treaty.

Article 20 of the Rio Treaty makes it unambiguously clear that all measures

imposed by the Organ of Consultation — like the travel restrictions on Ms. Rodriguez — are binding on all treaty parties, whether or not they voted in favour of such measures.”

From the above, it appears that the Minister’s response was not merely a contradiction to Ambassador Mondello’s statement, but regrettably it was an untruth seeking to mislead this honourable Senate.

**Madam President:** Sen. Mark, as per the Standing Order, your five minutes has elapsed. So what I would ask you to do is just go to the very last sentence.

**Sen. W. Mark:** Okay. Madam President, the freedom of speech that we enjoy as Members of Parliament is not an absolute one.

**Madam President:** Not that one, Sen. Mark, the very last sentence.

**Sen. W. Mark:** Okay, “The gravity”; thank you. The gravity of such an offence is underscored in no less a place than the UK Parliament itself.

**Madam President:** No, Sen. Mark. I am actually giving you an opportunity, just finish your very last sentence in what you have. “I humbly submit”.

**Sen. W. Mark:** Okay.

**Madam President:** Yeah.

**Sen. W. Mark:** I humbly submit the above for your determination in accordance with Standing Order 30(4). I so move, Madam President. [*Desk thumping*]

**Madam President:** Hon. Senators, I shall reserve my decision for later in the proceedings.

### **REAL ESTATE AGENTS BILL, 2020**

*Order for second reading read.*

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

Thank you, Madam President. I beg to move:

That a Bill to provide for the registration and regulation of real estate agents

in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing, and other related matters, be now read a second time.

Madam President, Trinidad and Tobago is a twin-island State. Land in its most basic form comprises our immense wealth. We have a limited resource in this country, and that is certainly our land. Our forefathers have, through their effort, through their enterprise, through their blood, sweat and tears engaged in the development of this country by its land resources.

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

It is from land that we get our greatest contribution to our GDP at present, Mr. Vice-President, as I welcome you. We get our oil and gas. We get our mining. We get our aggregate for the roads that we drive on. We employ thousands of people.

The system of land has been managed over time by a series of laws. Ownership or interest in land is a core requirement of transparency. It is that thing which you can give to your children. It is inheritance. It is a wealth to the citizens of Trinidad and Tobago. Of course, we have state land, we have private land, we have interest in land of multiple types. In this context we have a system of registration of interest in land. They exist in a number of laws. Our Real Property Act, our Torrens system, our registration of deeds system, our Conveyancing and Law of Property Act. You may have licences and leases by virtue of oil and gas structures, other dispositions of land. You may have recorded interest. You may have unrecorded interest. You may have an interest in title by virtue of what we call “adverse procession”, otherwise known as “squatting” in this country. There

is the state land.

In all of this, while we take steps across the platform to manage our resources in this country, we have as a government brought forward a number of pieces of law to treat with the interest in land. I need only mention the land package, the Registration of Title to Land Act, the land violation positions, the land tribunal, the amendments to the state liability and proceedings legislation.

I need also reflect upon other Bills before us now. We will come during the course of next week to discuss the registration of deeds package, which is a core concept of reform. But today I stand before this honourable Senate, having executed one of the most comprehensive reform packages in the fight against money laundering, corruption, criminality and terrorist financing, diving at the heart of criminality in this country.

Coming out of the exercise of reform that we did in our follow the money legislation, in our beneficial ownership disclosure, in the transparency, in the amendments to the money laundering laws of Trinidad and Tobago, coming out of this there was a stark observation, that one of the critical players in the business of land, in the management of this scarce resource, one of the critical players being the real estate industry, remains unregulated in its pure form. Completely and totally unregulated, standing only to a voluntary regulation process.

Mr. Vice-President, the closest that we have come to encouraging the organization of the real estate agents in this country or brokers in this country, has been Act No. 10 of 2012. By that Act which was a private Act of Parliament, which I participated in when it was being debated, the incorporation of an association to be known as the Association of Real Estate Agents happened. I want to pay tribute to what is now referred to as "AREA". This entity which was born by this Act of Parliament, this private Act of Parliament, Act No. 10 of 2012,

because AREA saw itself as a voluntary organizer of the real estate industry. They have engaged in yeoman service to Trinidad and Tobago.

Coming out of that experience, and coming out of the desire brought forward by this Government, and met by the members of AREA, we set upon the development of a regulatory system for real estate agents, which is now before us in this Bill. But equally important to the contribution of Trinidad and Tobago and coming out of the march for this legislation, was the birth of another agency, the Trinidad and Tobago Real Estate Association, TTREA. That entity, with its near 200 participants, recently born and organized, is equally deserving of acknowledgement by Trinidad and Tobago of a sincerity of purpose in ensuring that there is a joining of the issue that we need to regulate ourselves to better protect Trinidad and Tobago; to organize the profession that is real estate agents in general; to ensure that client money is protected whilst in the hands of brokers; to ensure that there is a discipline in the profession, there are professional standards. We know what professional misconduct looks like. To ensure that there is transparency in the system through a system of registration, through a system of disclosure, through a continuous education requirement. And I want to salute the players, the movers, the shakers and the participants across the real estate industry in Trinidad and Tobago.

That industry comprises, in terms of its share of the national pie, a contribution of almost 2.1 per cent of our GDP. That association is intimately involved in the transactions at the Registrar General. We at the Registrar General's Office, wearing the hat as Minister of Legal Affairs I can tell you, we register approximately 27,000 deeds a year. So 27,000 instruments pass title in this country a year, but that is not to say there are only 27,000 land transactions, because it does not take care of tenancies, of leases, of other dispositions of interest

in land.

Therefore, I come before the honourable Senate today with 83 clauses and two Schedules. These 83 clauses and two Schedules are intimately tied into the fact that we have an obligation under the Proceeds of Crime Act in the First Schedule for real estate agents to be registered with the Financial Intelligence Unit. That is pursuant to section 2 of the Proceeds of Crime Act and the First Schedule of the Proceeds of Crime Act. We have an obligation for them to be registered because they treat with land. It ties into our international obligation under the Financial Action Task Force, under the Global Forum, under the United Nations rules and resolutions against corruption.

But, Mr. Vice-President, I can tell you that in 2015 there were only 468 real estate agents registered. Today we have doubled that. We are beyond the double, we are at 1,023, because of an aggressive capture of registration by the Government and because of the advocacy of the AREA, the entity that operates, and now most recently the TTREA who are encouraging registration.

But in Trinidad and Tobago the records of the Financial Intelligence Unit tell us that in one year alone there was almost \$23 billion in suspicious activity in Trinidad and Tobago recorded at the FIU. Let me repeat that: \$23 billion in suspicious activity. That is half of our earnings as a country per year. On average we may earn maximum about \$45 billion, now at \$35 billion. To have \$23 billion in suspicious activity recorded at the FIU tells us that a prudent government needs to extend the regulatory reach into the real estate agents themselves.

So what do we do? We have noted quite significantly that this legislation is required. We engage in a process of consultation with a wide bunch of stakeholders. If you look at AREA with over 213, 137 members at last, 78 brokers, 112 sale associates, 17 corporate bodies. If you look at TTREA with over 200

members, we have touched and concerned over hundreds of persons, having received comments from them both. We have also received commentary from the stakeholder engagement with the Law Association, with a wide range of stakeholders.

We have come today with the Bill, standing on a number of other laws that we have examined. We have looked at the laws of The Bahamas, Bermuda, Canada, New Zealand. We have looked at a bit of the legislation that has occupied attention in those territories. We have looked at the case law in the Commonwealth. We have looked at the case law in Trinidad and Tobago. And as we have done all of that, we have now produced this legislation which tells us with certainty what we ought to contemplate as good law.

Mr. Vice-President, may I ask what time is full time?

**Mr. Vice-President:** 11.11.

**Hon. F. Al-Rawi:** So very little time. I am compelled to jump directly to the Bill. Mr. Vice-President, this Bill is divided into several parts. We take it through Parts I to XII. Essentially what we are doing is we are in this law, (a), causing an interpretation to be immediately relevant. We say who is a real estate agent, who is a sales associate, who is a broker, who is a brokerage, who is a client, what is client money, what is property, what is the business of real estate. We do that in clause 3. Very importantly in clause 3 we say who is a developer, because developers are persons occupying the category of self-business management. They may not be real estate agents, but they may be involved in land issues of a kind that ought to be identified as well.

Very importantly, Mr. Vice-President, we say in clause 4 that there is a disapplication. This law does not apply to state land and state bodies because we deal with the disposition of state properties under the public procurement and

disposal of land legislation. I can tell you that I have sat with the Procurement Regulator. We have finished the review of the Bill. We are settling the regulations now. We intend in a matter of weeks to come and complete the regulation that the Public Procurement Regulator has produced. So there is a disapplication in clause 4.

In clause 5 we say who may engage in real estate, and we exclude in there certain categories. You are not in the business of real estate if you are acting as a trustee, if you are acting under a power of attorney, under a court order, if you are acting as an auctioneer, if you are acting as an attorney-at-law, if you are acting for a client in the circumstances of assignee custodian, liquidator, receiver, et cetera.

What we do is we also say, very importantly, in clause 5(2)(c), part (d), that you are not in the business of real estate if you are dealing with property of which you are an owner or part owner, and in subclause (e) if you are a developer. Why? You need to manage that cohort in a different way.

What we do next is we define in clause 6 what a developer must do. We are effectively in this law saying that the Registrar General must receive applications for registration from the following entities: a sales associate, a broker, a brokerage and a developer. All of those people must pass through the door and file out a prescribed form, fill it out, file it. In the case of the real estate agents, they are of two types: the sales associates and the brokers/brokerages. The sales associate does not handle client money. The broker handles client money. So all brokers are sales associates, but not all sales associates are brokers.

The developer is the person who says, "I am dealing with this land for myself. I am not acting as a real estate agent". We put an obligation for all of them to get to the public registry and identify themselves.

We in this legislation also say that the broker or brokerages must be licensed



by a process of licensing, from a committee. They are licensed. They must have professional indemnity insurance. They must be known. Those aspects are dealt with later in the Bill, I will come to that. But in the sales associate and brokerage profession, first port of call is register yourself.

Clause 27 requires a mandatory membership of all real estate agents into the body called “The Association”. We cause a mandatory registration, just like you have mandatory registration for lawyers, for engineers, for doctors, for land surveyors, for architects, et cetera. And what we do here is we set out in the registers a private register and a public register.

In the private register your information which is in clause 8, which is where you submit an AML/CFT/PF questionnaire, anti-money laundering, countering financing of terrorism and proliferation financing terrorism questionnaire. That stays in a private register accessible to the Financial Intelligence Unit law enforcement, under a court order.

The public register is designed for everything else. So you can have access to the public register, but the private register which has private issues is available to law enforcement basically or court orders.

We set out a system of application. You can either be a person at 18 years old or you can be a limited liability company, or you can be a partnership and you must have the prescribed qualifications. What does that mean? The association will come up with what the prescribed qualifications are. There is a transition clause in clause 83 where you will see we are effectively saying you will have 12 months of operation or a further date beyond that, as the Minister may by order grant, or 18 months in respect of a broker. You will have that time frame to bring yourself onto the system, but it is intended that the association will come to work. The association will comprise itself. The association will populate itself. They

will have a president, a vice-president, a treasurer, a secretary in accordance with the Bill before us, and they will, together with the Government in a co-regulatory arrangement describe what the qualifications are.

We of course provide for the right of appeal to the High Court if you are refused registration. There is a process of notification. There is a process of objection time frame. There is a process of knowing what your objector says, answering that, so there is full due process in clauses 8, 9, 10, 11, 12 onward.

When we get to 13 and 14 we are describing the facets of private and public registers, the access to the public registers. We are dealing with the obligations that are standard in laws like this such as clause 17 where there are change in particulars, that there are positive obligations to say what is going on.

Then we go through a renewal process. We are saying that these licences, this registration must be done every three years. Why? We have done it for the non-profit organization. Number two, it compels the person who is registered to come forward. If we take the experience from the companies' law, if you allow companies to exist in perpetuity as we do, you find that nearly three quarter of your list is defunct and you are chasing ghosts. It is how money laundering happens. If you remember the juice can fiasco under the last Government, where they used a defunct company to carry nearly \$1 billion worth of drugs across borders into the United States of America. That has to be put to an end, and the process of recycling registration is standard now across the non-profit organization regime, et cetera, et cetera.

**11.00 a.m.**

We get to the ability of the Registrar to cancel registration. Obviously if the FIU tells you to cancel, obviously if the Committee tells you to cancel, obviously if there are other requirements they may be an issue of cancellation upon revocation,

upon death, upon surrender. That is in clause 20.

We in Part IV, establish the Real Estate Agents Association and I would like to say this is a core aspect of position. The Association has a mandatory provision. You have to be a member of the Association. Obviously, that is something which we have looked at from a mandatory imposition perspective, under a three-fifths perspective, whether that was required. I can assure you that that is not the case. I have all of the case law with me here today, including the Court of Appeal of Barbados, the European Court of Human Rights, the several dicta coming out the out of the Canadian jurisprudence and of course, the Privy Council and the Supreme Court of England.

In that mandatory membership we are hanging our position upon the fact that it is a public body, for a public purpose, discharging a public interest. And that rhythm is critical because it underwrites the proportionality, and I will refer you, Mr. Vice-President, for that purpose, to several clauses. Perhaps I may get to it in my winding because time is short. But suffice it to say, when you look at up the functions of the Association, you look at the Disciplinary Committee, you look at all of the aspects together, it is a public body discharging a public interest for a public purpose. And what is the public purpose? The protection of Trinidad and Tobago, the fight against corruption, the fight against financing of terrorism, et cetera.

We get to Part V which is the Real Estate Agents Licensing Committee. Now, this Licensing Committee is also relevant to the whole concept of how we manage the Disciplinary Committee, and the Disciplinary Committee and the Licensing Committee, Disciplinary Committee is clause 54, the Licensing Committee is clause 30, we have used the Service Commission backing by populating those committees with members of the Judicial and Legal Service

Commission, an independent cadre of persons to be appointed by the Judicial and Legal Service Commission. Why? Because they exercise quasi-judicial functions in licensing or in disciplining, and therefore you have service commission backing if you are going to meet constitutional muster.

In this position you will see that we have had a whole regime as to how it works, how the appointments are qualified, how the members are qualified, how they are revoked, if anything happens. And the Licensing Committee is tied into Part VI where we deal with the licensing of brokers. All brokers have to be licensed. Why? Beginning at clause 40, because you cannot handle client money and not have a license to do it. It is a public good that you are licensed for that purpose, the same way attorneys at law are licensed by virtue of their Bar qualifications or doctors are licensed. You have to have a degree of public responsibility here.

We of course, Mr. Vice-President, allow for an appellate process, a move to the High Court, we are building the due process regime in the licensing committee in their activities. And then we tie that into Part VII, begins at clause 47, where we deal with professional misconduct. The professional misconduct is critical. Look at what we have in clause 47. If you fail to have your client's consent, you fail to disclose that you are acting for more than one person in the transaction, dual brokerage, dual agents, you misrepresent that you have the license to market the land, you pass yourself off as another real estate agent. All of these are very familiar issues to Trinidad and especially Tobago, where the land title is in jeopardy of uncertainty although we have a full mechanism of curing that which is ongoing right now. The fact is everybody can tell of "smart manism" if I can use that expression here. We have too many smart men in the industry and for people who value their land, their inheritance, et cetera, we must protect them from the

wolves who are out for their blood.

When we look to Part VIII, the Duties and Obligations of Real Estate Agents, again, this is critical. What are we asking them to do? To maintain critical documents:

- “(i) survey plans;
- (ii) valuation reports;
- (iii) title information;
- (iv) other particulars...”

Why? In this country we have umpteen examples in our courts where people pretend to be someone else. They go so far as to do a deed poll to change their name, they come with false IDs. Not false—in fact, because on the deed poll someone can change their name to Faris Al-Rawi, get a deed poll, present it, go and get a driver’s licence, have a picture, name says Faris Al-Rawi, they roll up and they try to sell a property belonging to Faris Al-Rawi, and therefore you have fraud, or impersonation, or identity theft. And all of these are issues which we seek to capture in the duties and obligations, Part VII, beginning at clause 48 of the Bill.

Part IX treats with the Disciplinary Committee and if we look to the Disciplinary Committee, look at the functions in clause 54. Again, we use the Judicial and Legal Service appointees exercising quasi-judicial functions. To those who are paying attention outside of this Parliament, this is the reason why we have not populated it with people from the industry themselves because you have to meet constitutional muster by having people appointed by an independent service commission. In that regard—

**Mr. Vice-President:** Attorney General, you have five more minutes.

**Hon. F. Al-Rawi:** Thank you, Mr. Vice-President. It is critical for us to

remember that both the Licensing Committee and the Disciplinary Committee must be able to discharge functions without fear of interference. And the interference factor is addressed by taking a Service Commission in this case the Judicial and Legal Service Commission to arrange the appointments as we have set out.

Mr. Vice-President, Part X deals with Disciplinary Proceedings, beginning at clause 63 onward. And the disciplinary proceedings at clause 65 tells us that the Committee may:

- “(a) reprimand or censure...
- (b) recommend to the Registrar General that the Certificate...is suspended,
- (c) recommend to the Committee, that the licence of the respondent be revoked.”

But very importantly at clause 70:

“Where, during the course of...proceedings Disciplinary Committee...” observes or “discovers...evidence of a criminal offence, it shall immediately refer the matter to the Commissioner of Police and the Director of Public Prosecutions and inform the Registrar General and the Supervisory Authority...”

Who is that? The Financial Intelligence Unit. So we are tying in all aspects of the puzzle.

Importantly, we set out the offences and then we set out the transition provisions at clause 83. And the transition is to make sure that we allow the industry to come into compliance. Twelve months or such further period as may be extended for the sales associates, eighteen months for the brokers or such further period as may be extended for them.

We of course set out in the Schedule, the Constitution of the Association. It mirrors a lot of what we find in the Legal Profession Act. We look to the transition of the First Board in Part B. In the Schedule 2 we look to the List of Offences, we tie it in to the:

“Prevention of Corruption...Computer Misuse, Proceeds of Crime...Anti-Terrorism Act,”

And then we deal with “Consequential Amendments”. What does this mean? We have come to this country, we have addressed the criminal justice system, massively expanding the criminal justice system, rapidity, courts, judges, laws, rules. That is good enough. We then came and added bodies to those systems, 516 people in the Judiciary, 125 new courts when they begin to open, not including those under construction. We then went in and we said, “Let us deal with processes”.

That is where your rules come in, that is where your preliminary enquiries come in, that is where your plea bargaining comes in, that is where your maximum sentence indicator comes in. We then added in another layer which is the fight against crime. We demonetized crime issues in money, follow the money, civil asset forfeiture, explain your wealth, amendments to the Companies Act, introduction of beneficial ownership, demonetization of the \$100 bill. We then went into land reform on a physical level by improving the processes at the Registrar General’s Office. We then went in to land title issues. How we record title, how we destroy secrecy, how we destroy beneficial ownership coming to cheat by putting a property in some person’s name when it is really owned by someone else. And that property could be shares, that property could be bearer share warrants. This is an entire organism where all of the laws that we have passed at the Attorney General’s Office, in particular in combination with the

Ministry of Finance and elsewhere, these laws all work together. This is one piece of the puzzle. It is unacceptable where land is a precious resource on twin islands that you could have an industry that is not regulated at all on a compulsory co-regulatory basis. This stabs at the heart of criminality. This is a fight against money laundering, corruption, terrorist financing, but this also elevates a noble profession of wonderful people that have done yeoman service to this country, persons in the associations that are voluntarily managed themselves. And therefore, Mr. Vice-President, it is critical that we hear in this debate any concerns and issues, we iron them out and we get on with passing good proportionate law. I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Wade Mark:** Thank you, Mr. Vice-President. Mr. Vice-President, I am very happy to contribute to this very important piece of legislation that has been long in the making. And as the AG said, I hope that at the end of the day we will be able to find consensus in passing a law or a Bill in to an Act, that would be proportionate, that would be good legislation, that would be fair, and that would be equitable in the interest of the Trinidad and Tobago population.

Mr. Vice-President, I was waiting attentively to hear the Attorney General declare his interest in this Bill, because there is a concept in this Bill that deals with developers, and I can tell you that there are many senior Cabinet Ministers—

**Hon. Al-Rawi:** Would you give way?

**Sen. W. Mark:**—who have turned into developers in this country.

**Hon. Al-Rawi:** Mr. Vice-President, I regret. In the House I declared my interest in real estate and as a developer and I thank the hon. Senator for reminding me, I was rushing out of time. I properly declare my interest. I did so in the House on the record on many occasions and I thank my friend for giving way.



**Sen. W. Mark:** Yes. So I am happy that the hon. Attorney General has done that, because, Mr. Vice-President, we have some concerns. I have looked and I have done some research on behalf of the Opposition UNC, which will be forming the next Government, and I can tell you, Mr. Vice-President, that there are concepts here that I need to have clarified.

Mr. Vice-President, in the original Bill there was a concept of developers and during the committee stage in the other place, that concept was transformed, and translated, and changed, and I am trying to understand, Mr. Vice-President, why a developer that is supposed to be concentrating on land development and its distribution in accordance with the planning and facilitation Bill, only land, the development of land, laying the infrastructure and then disposing by sale to you and to me, which is okay. We have now had a new definition which means the developer is developing the land, Mr. Vice-President, laying the infrastructure, but you know what he is also doing, Mr. Vice-President? He is erecting buildings, housing, or houses rather on the land, and Mr. Vice-President, he is also selling to you and me the house or the houses.

So, the developer is three, like the “La Trinity”, in one. Development of land, building homes, and also selling homes. And you know what is even more dangerous in this concept, Mr. Vice-President? That person does not have to have a licence. He is not given, he is not incorporated under that section of the law that deals with receiving a licence, but you know who they are asking to be licensed? What is called, Mr. Vice-President, someone is called in this legislation as you know a “real estate agent” which means a “sales associate or a broker”. That person has to be registered. That person, Mr. Vice-President, has also to have a licence. How can that be fair? How can a developer sell house, build house, sell house, Mr. Vice-President, and he does not require a licence? Something is wrong

with that. And I am asking the Attorney General, he being a developer along with many senior Cabinet Ministers, I do not know if they are in the right profession, quite frankly. You understand, I do not know if they are in the right profession.

But you know, Mr. Vice-President, I would ask the Attorney General when we meet at the committee stage to make the relevant changes to ensure that a developer is a licensed person. He cannot be out there just developing houses and selling it, and selling them, and Mr. Vice-President, he is not obligated to renew his licence every three years, because he is given a free pass. That is wrong. And I am asking the hon. Attorney General to pay attention to that matter.

Mr. Vice-President, we have looked at this piece of legislation very carefully, and I can tell you that we have some concerns because we do not understand why this convoluted approach is taken by the Government of this country. The AG talked about, that is the hon. Attorney General, talked about New Zealand, and he talked about Canada. Well, I have looked at New Zealand, I have looked at The Bahamas, I have also looked at New Zealand, and Jamaica. So Jamaica, Bahamas and New Zealand, and, Mr. Vice-President, this convoluted, complex and confusing piece of legislation that the Government has brought before us, you know, there is no comparison with what exists in the Bahamas.

For example, you have an organization called AREA (Association of Real Estate Agents) operating for 30 years in the country. They were incorporated in 2012 by an Act of Parliament. You know they have no role for AREA in the legislation? In fact, the Attorney General and the Government has thrown out 30 years of experience. And the Attorney General is boasting in his presentation that these people work so hard and they make so much contribution, and this, and that, and the other. But if you recognize their services and their contribution, why did you not include AREA in the legislation? And do not tell me you cannot do it.

Mr. Vice-President, may I advise you that in The Bahamas there is an organization just like AREA and they are existing for 50 years, and you know what they did in The Bahamas, Mr. Vice-President, they incorporated AREA, the counterpart of AREA, right in The Bahamas into their legislation. Why can we not do that? Why did the Attorney General not incorporate AREA into the legislation as The Bahamas did? He did not do that. You know what we did, Mr. Vice-President? He put something called an “Association of Real Estate Agents”, established a board, and then he put his own people on that board as far as I am concerned. When I say he put his own people, you look at the composition of the board. It is not coming from AREA. I am saying, Mr. Vice-President, that something is wrong with this piece of legislation.

Mr. Vice-President, in New Zealand, in Jamaica, in The Bahamas, there are boards established. In the case of The Bahamas, AREA is the board, is the authority. You know, Mr. Vice-President, the different committees that we are establishing under this legislation to do with what discipline, to deal with licensing, Mr. Vice-President, all of these things are functions and duties of the board.

But you know what this Government has done in the legislation? They put a committee of lawyers, the majority from the Law Association, or attorneys at law I should say, not the Law Association, and they brought one or two other persons in the picture. So you have about seven members, but the bulk of them coming from the—are attorneys at law. No experience in the real estate business, Mr. Vice-President. I do not know what is their practice, but they are coming to determine whether you should get a licence to practise your profession and they have no linkage with the industry. Why is the Government doing this? What is the purpose of this? You bring strangers to judge me. It is like we are in Parliament and I did something wrong, and I gone before the Privileges Committee, you bring

lawyers from outside to judge me. “You cyah do dat.” It is my peers that must judge me. You must judge me according to the rules. And that is what the Government has done. That is wrong and I do not know what is the objective behind it. I do not know what is the objective, but there must be an objective because the Attorney General is wise enough to know that in The Bahamas the equivalent of AREA in Trinidad and Tobago has been incorporated in the legislation.

So do not come and tell us in this Parliament it cannot be done. It was done, it is done, it has been done in The Bahamas. So why are you leaving them out? Something is wrong, Mr. Vice-President, and when I see this concept of developers and I see that—Mr. Vice-President, imagine I am a real agent, hypothetically. I have to register. So hear “nah”, the thing is so convoluted and complex, it is as if they want to frustrate persons in that profession. They tell me as a real estate agent if I am one, I have to register. Mr. Vice-President, every three years I am being told under this law I have to register. You know, in addition to registration they put another burden on me. They say, “Listen, if you are a real estate agent or sales associate or a broker, you must have a licence.” If I do not have a licence I cannot go and do business with anyone who wants to sell land or sell property or rent property. I cannot be involved unless I have a licence, and, Mr. Vice-President, that licence is for three years. And the Attorney General and his Government is saying I must be registered every three years. So I have to register, and I have to have a licence.

But the developer who is now dealing with land subdivision, and infrastructure, and selling land, he is now given the power under this law to do what, Mr. Vice-President? He can construct buildings, he can construct housing, and he can now sell directly to the public. You know what, Mr. Vice-President, no

licence for him. So we have a senior Government Minister who is building houses right now on Picton Road in Port of Spain called “Allora”, he is a developer, he is able to sell on his own but no licence for him, but the ordinary real estate agent is being called upon by this Government, if you want to buy or you want to engage in any activities in property arrangements, and development, and exchanges, you must have a licence. Something is wrong with that.

And, Mr. Vice-President, in the legislation that I have looked at, I think it was Jamaica, once you register, Mr. Vice-President, that is it. Either Jamaica, or I think, New Zealand once you register, that is it. You do not have to come every three years and register again. So why is the Government, Mr. Vice-President, doing this? And, Mr. Vice-President, you know what is even more alarming? The Association that is established under the Act in order to run some aspect of the operations of the real estate business, Mr. Vice-President. That organization, Mr. Vice-President, is not given the power to deal with licensing, they are not given the power to deal with registration. Mr. Vice-President, you know who is given the power? The Registrar General. That officeholder and that office is swamped, it is drowning in work. And you are giving that office more work when in other jurisdictions, New Zealand, Jamaica, and a place called Bahamas, the Board of Real Estate Agents, they are called upon in the law to establish their own registrar to register all agents, all brokers, all developers, but you know what we are doing, Mr. Vice-President? We are putting that power in the hands of the Registrar General’s Office. Why is that? Why can the AG not think outside of the box? Why is he so trapped in colonialism? This is a colonialist approach because you cannot have an organization, Mr. Vice-President, existing for 30 years doing great work—

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

**Sen. W. Mark:** Yeah. —doing great work in this country, Mr. Vice-President, and you are saying that you have no role for them. How can we support the measure in its current form? I want to serve notice on the Attorney General, “I eh wah no brief for nobody”, AREA or nobody. But I believe in justice and fairness. *[Interruption]* No, I am saying I do not hold a brief for AREA, but I think that they have made a case. And it is an injustice what we are being asked to do here today.

So I am calling on the Attorney General to be prepared to entertain some serious proposals for amendments to this legislation. Do not foist this on AREA and do not foist this on the country. It is unfair. And I support the AG on getting at the money launderers, getting at the criminals, getting at all of those people who are money washing. We are all on one page in terms of getting at the criminals, but AREA, the bulk of the people in AREA, are they criminals? They are not. They have been doing good work in the country, and therefore, we must give them the kind of recognition that they deserve. Do not tell me you are going to toss them out of the window, the baby with the bath water.

**Mr. Vice-President:** Senator, my apologies, you finish at 11.42.

**Sen. W. Mark:** Okay, why, I thought I was moving faster so that that is why. *[Laughter]* Yeah, but I am now warming up.

**11.30 a.m.**

So, Mr. Vice-President, I really believe that the hon. Attorney General has to rethink this convoluted piece of legislation that he has brought here, lest people come to the wrong conclusion that this piece of legislation is designed and conceptualized to deal with a few in this nation at the expense of those persons who have been practising the profession. So I want the Attorney General to take account of what we are seeing on this very important matter, Mr. Vice-President, you know.

Mr. Vice-President, so as I said, why is the Attorney General ignoring the experiences of Jamaica or New Zealand or Bahamas? Mr. Vice-President, we are asking the overwhelmed Registrar General's office to do what? That office is under resourced, heavily strained, under a lot of strain I should say, and stress, and they are being asked to do the following Mr. Vice-President under the proposed legislation, in Part III. They are to receive applications for registration. They are to cause notices to be published in respect of those applications. They are to deal with objections to such applications. They have the power to approve or refuse such application.

Why should the Registrar General have that power? What does the Registrar General's office know about real estate? Do they have any experience in real estate? You have to put the people—Mr. Vice-President, I am not a lawyer, but the Attorney General is a lawyer. And he knows, Mr. Vice-President, that the lawyers have something called the Law Association. And it is the Law Association under their law and the Act of Parliament that incorporated that body. They deal with their affairs. But you want to divorce and sever the real estate professionals from your practice and from their profession, and their trade, and allow persons who do not know, have no experience, Mr. Vice-President.

**Mr. Vice-President:** Senator, as much as you have extra time, what is starting to happen, is that I have heard point one, I have heard point two, and I have heard point three, and I am starting to hear point two again. So, if you have any new points to bring—

**Sen. W. Mark:** I have several new points, Sir; several new points. So, I am guided by you. I thought I was just emphasizing these points so that you can understand, but I understand that you are a bit bored. So I am now going to go on to new points. Forgive me, I apologize.

**Mr. Vice-President:** So, one of the problems that happens with the new arrangement in this Chamber, is that I am noticing Senators responding to the Chair when the Chair is trying to rule. Now, the Standing Orders dictate that you sit so that the Chair can rule. Given the fact that we are at the podium. And that— [*Sen. Mark sits*] Beautiful, absolutely beautiful. So exactly what Sen. Mark just did is what I will ask Senators to do when it is the Chair is standing to rule. Sen. Mark, all I am indicating is if have a new point, you are invited to bring it forward. Thank you.

**Sen. W. Mark:** Yes, Mr. Vice-President, I was going to a number of points without just elaborating as I go along. So the next point I am raising in terms of Part III where the Registrar General is asked to do certain things, is:

“...to establish and maintain a Register of Real Estate Agents and a Register for Developers...”

That is a function of the Registrar General's office. Another function is to cancel or to remove a registrant's name and of course to deal with renewal of applications for registration under this particular law.

Now, Mr. Vice-President, I would like to ask the hon. Attorney General arising out of this set of functions given to the Registrar General, why not, Mr. Vice-President, to the Attorney General, vest the association and I am talking about AREA with these functions of registration and licensing? Why not appoint Mr. Vice-President a registrar from within the Association to maintain the register, rather than place that burden on the Registrar General's office? Why are there separate bodies Mr. Vice-President for registration, for licensing and for education? Mr. Vice-President, these are functions that ought to fall under the umbrella of the board or the authority, and not separate them into separate or different committees, Mr. Vice-President.



Mr. Vice-President, I want to indicate to you that when we—there is a whole question of re-registration of your licence as the case will be. Now, Mr. Vice-President the Bill as it stands makes no provision for re-registration when a person's name has been removed from the register. I would ask the Attorney General to consider including a provision similar to The Bahamas law, section 21. And section 21 of the Bahamian law says Mr. Vice-President, and I quote:

“Subject to subsection (5) of section 17, an individual whose name has been removed from the register, may apply for re-registration at any time, and all the provisions of this Act relating to registration shall...apply to the re-registration under this section.”

Again, Mr. Vice-President, I am proposing for the hon. Attorney General's consideration this particular amendment, Mr. Vice-President.

Mr. Vice-President, there is a section of the law that we are dealing with that looks at the whole issue of the transitional period or what is called a transitional clause. I think if you go to clause 83, you will see exactly what I am referring to, Mr. Vice-President, as it relates to this matter. And I believe this is an area that we need to visit, revisit, and at least advise the Government of ways and means of strengthening this particular section.

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

**Sen. W. Mark:** Thank you, Mr. Vice-President. Mr. Vice-President, I would like the Attorney General to share with us this exercise of the formulation of a code of ethics. My understanding is that AREA, which is the Association of Real Estate Agents, existing for over 30 years in this country, have formulated a code of ethics. And I want to find out from the Attorney General whether in the formulation of the code of ethics that already exists, and has been formed and established by AREA,

whether the Government will be paying attention to those elements comprising the code of ethics in terms of attaching same to the legislation in the final analysis.

I also believe, Mr. Vice-President, we need to have some amendments to what is called “broker” and what is called “sales associate”. So, I am asking the Attorney General to consider a definition where we will talk about real estate professionals as a category and this would include the broker, the sales associate, or any sales associate, they call them rookie, registered and licensed by the board who engages in real estate business on behalf of another person in consideration for remuneration and that a real estate agent means a sales associate or broker. That is a view and that is a concept I would like the Attorney General to adopt when we get to the committee stage. Because, Mr. Vice-President, in the legislation the sales associate, or the real estate agent is being told in this legislation you cannot handle money. And we are advising the Government, that that is something that they need to rethink and that is why we are putting this definition for the consideration Mr. Vice-President.

Mr. Vice-President, there are several amendments we will also be asking the Government to consider to the legislation. Clause 79, we are going to propose some amendments for consideration. Clauses 47, 48, 49, 51, 56, 83, 15, we are asking the Government to consider amending the legislation so that we can have at the end of the day, good legislation, proportionate legislation, fair legislation, equitable legislation, Mr. Vice-President, so that all the players involved in the industry would have a sense of satisfaction.

Mr. Vice-President, I have learnt that there are over 700, maybe 800 persons in that industry today, 800. So it is a large amount of persons involved in that industry. So we have to regulate it, we support the regulation, but we are putting forward appropriate amendments in order to strengthen the legislation at the end of

the day. So we are serving notice that that is what we will be doing at the committee stage of this particular piece of legislation. I wish to thank you, Mr. Vice-President, for giving me the opportunity to make my contribution.

**Mr. Vice-President:** Sen. Mark, so you would have those amendments circulated prior to committee stage.

**Sen. W. Mark:** We will as instructed, Sir.

**Mr. Vice-President:** Sen. Seepersad

**Sen. Charrise Seepersad:** [*Desk thumping*] Mr. Vice-President, thank you for the opportunity to contribute to the debate on the Bill. The Real Estate Agents Bill, 2020. The Bill before us provides for the registration and regulation of real estate agents and other related matters. The main objectives of the Bill are:

1. To promote transparency, accountability and integrity in the real estate profession;
2. Protect and assist persons engaged in real estate transactions with real estate agents;
3. Assist in the detection and prevention of money laundering and terrorist financing and other related matters.

An industry which accounts for approximately 2 per cent of gross GDP can be construed as significant to the economy.

In Trinidad and Tobago the real estate industry is an integral part of business activity and transactions on average represent \$3 billion, or 2 per cent of gross GDP. The world financial crisis of 2007/2008 had its genesis partly in real estate transactions through mortgage financing, or what is called “securitization”. “Securitization” is the financial practice of pooling various types of contractual debt such as residential mortgages, commercial mortgages, et cetera. We all know

how that ended and not all countries have recovered fully from this global economic tragedy, as still is the case with our economy.

**11.45 a.m.**

The UN global compact, using the principles of human rights, labour rights and environmental protection and anti-corruption, discovered that throughout the world the real estate industry is one of the sectors that least adheres to sustainability and best practices. Mr. Vice-President, at the present time, any legislation governing the buying and selling of real estate in Trinidad and Tobago is woefully inadequate. While regulations exist for architects, attorneys, engineers, surveyors and urban planners, the sector comprising real estate agents is the only sector in the property sector that is unregulated.

The Association of Real Estate Agents (AREA) established in the early 1990s is a self-regulating body that has developed standards and agreed operating rules for participating members. The organization's disciplinary committee may enforce penalties for infringement by members as set out in its articles and regulations. However, AREA is constrained in that it cannot deal with matters extraneous to the association or that do not involve its members. Also, they have no powers to mandate persons and companies operating in the real estate market to join the association or abide by its regulations. Given the lack of adequate legislation and an impotent governing body, it is evident that the industry should be structurally formalized so as to adequately:

1. Protect buyers and sellers, that is, prevent rogue operators preying on the unsuspected person or company.
2. Prevent and detect money laundering.
3. Implement a code of ethics.
4. Formulate standards for operations.

5. Develop licensing requirements.
6. Provide definition and guidelines for the roles of the various players.
7. Agree enforceable disciplinary measures.

Mr. Vice-President, there needs to be a clearly articulated transitional plan during the period when these legislative changes are being implemented. The appointment of suitable persons to the Licensing and Disciplinary Committees will take time. The application and approval process of members will also be a time consuming exercise. The board of the real estate association can only be constituted when a significant part of the registration process has been completed; only then can the board members be elected and installed. I think the roles and responsibilities of the various committees and organizations defined under the Bill should not be left in abeyance while the registration process takes place. I suggest that the Bill include a hold-over requirement for the current board of the Association of Real Estate Agents to have a reasonable transition time until elections can properly be held. This will allow for the smooth transition to operationalizing the legislation.

Registration of Real Estate Agents, clauses 18 and 19. Registration of Real Estate Agents should be a one-time requirement. Reregistration every three years is a burdensome process when coupled with the renewal of the real estate agents' licence. The real estate agent licence can be renewed annually. Real estate agents must yearly meet the requirements for licence renewal as stated in the real estate association's rules and regulations.

Licensing Committee, clause 30. It is standard practice that professional organizations are required to include members of their profession on the licensing admissions committee. These persons are most suited to assess applications for admission into their profession. They should also be applied to the real estate

Licensing Committee.

Disciplinary Committee, clause 54. In the Bill the committee is to be comprised of seven persons appointed by the President; a chairman who is an attorney-at-law, three attorneys-at-law, and three persons with five years' experience in the real estate business.

The Bill defines the requirement for persons who engage in the real estate business. Therefore, representatives from the real estate sector should not merely be persons with experience in real estate business. The three persons selected to represent the real estate industry should be licensed real estate practitioners with at least seven to 10 years relevant experience. These persons must be fully au courant with real estate practices, procedures, and all applicable legislation. In matters concerning disciplinary decision of administrative bodies of professional organizations such as the Disciplinary Committee of the Real Estate Agents Association, standards of conduct intrinsic to each profession are best known to and assessed by the specialist bodies governing that profession. I recommend that this principle be applied to the persons representing the real estate industry.

Real Estate Sales Associates. In the Bill, clause 40(2) states that a sales associate could apply to the Licensing Committee for a license if he intends to engage in the business of a broker. The Bill does not make it mandatory for a sales associate to be licensed. The Bill also limits the role of the sales associate in dealing with clients' moneys. It is current practice that sales associates are in the field meeting with clients. They generally negotiate the terms of the property sale, purchase and lease. The sales associate also physically receives the deposit cheque or draft from the client for deposit into the broker's or attorney-at-law's escrow account or handed over to the vendor or landlord. Prevention of this practice will create an unnecessary administrative challenge which is not in keeping with the

standards of practice of the real estate industry. Real estate sales associates must be licensed. Their function should clearly state that they Act under this supervision of a real estate broker. Also, real estate sales associate must to be linked to a broker or brokerage company, and the broker has a duty to supervise the sales associates.

Rules, clause 79. Clause 79 states that:

“The Registrar General may, with the approval of the Minister, makes Rules prescribing forms, fees and other matters relating to the registration under this Act.”

In this regard, I recommend a participatory approach. The Registrar General should collaborate with and seek the recommendation and possible agreement of the real estate agents association.

Mr. Vice-President, clause 15 of Schedule I prohibits the payment of any compensation to board members of the real estate agents association. However, clause 33(2) and clause 57(2), members of the licensing and Disciplinary Committees are also entitled to compensation. The role of the board as defined in clause 24 includes:

- Improving standards of conduct and proficiency of real estate agents.
- Promoting compliance to the code of ethics.
- Representing, advancing and protecting the interest of real estate agents.
- Developing initiatives for the efficiency and effective delivery of real estate services.
- Protecting and assisting the public in all matters relating to real estate business.

Mr. Vice-President, given this array of responsibilities and considerable investment of personal time required by board members, I am puzzled as to why some form of monetary compensation is being withheld from board members. Thank you, Mr. Vice-President.

**Mr. Vice-President:** The Minister of Trade and Industry. [*Desk thumping*]

**The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):** Thank you very much, Mr. Vice-President. Today I am very pleased to be part of the presentation of this Bill. Again, I want to thank the AG, the Attorney General, for bringing this forward. It is long overdue. But I give him all the credit because when we first came into office I remember meeting a couple people from AREA, and it is the AG who really took up this cause with them, and pushed the work through, to ensure that it was brought before the end of the term.

So, I am very pleased about this. They have been around a long time but in the truest sense, whilst there have been a formal body, today we are going further and regulating the industry. There are several reasons why I am pleased that this Bill is here, and it is a really very well-constructed Bill contrary to what Sen. Mark is promoting. One, because this industry, this real estate industry is a very valuable industry in the economy in terms of its contribution to GDP, employment and possible exports, and so that is a feature of trade. And two, because it seeks to deal with criminal matters, and the AG spoke about that, like money laundering and so on, because it is well-known that dirty money finds its way in real estate purchasing. And three, this Bill protects consumers, those who are involved in the purchase and the leasing of property.

So, if I go straight to the point about the value of the industry. According to the 2019 Annual Economic Survey from the Central Bank, this real estate industry was responsible for 2 per cent of GDP between 2015 and 2018, and 2.1 per cent from



January to March 2019, and I compared it to agriculture which is just about 1 per cent. And in 2019, looking at the *Review of the Economy*, the contribution to GDP was something like \$3 billion. So the real estate sector saw some growth, 2.4 per cent growth in real economic activity in 2019, and we are very pleased about that. I looked for the employment figures, but the only thing is the Central Bank combines the finance, insurance and real estate services sector together, so that there were some 4,600 jobs recorded in terms of an increase in employment. But, however, it is difficult to segment, but I do know that there are considerable number of persons involved in the industry. COVID has affected them too, so that they too they are under a bit of pressure, and especially liquidity pressure as well, but of course this trend will be reversed when the economy enters its recovery phase.

So, I am not going to speak about AREA again, I think several speakers spoke about AREA and what they do, but again I wanted to speak very broadly about this services sector, and because of the importance to GDP again. As I said, they make the largest contribution to GDP ahead of manufacturing, ahead of energy as well, and that is why it is so very important. The only thing is it includes, again, as I said, several other areas, ICTs and business services and so on. But again, the importance is a very real one when we speak about diversification. And now that this has become formalized and legislated it is one that can be—it is a small industry that is important to diversification and along with the rest of the services sector. I do not have the trade data, but I can tell you that there are local companies, TERRA is one of them, TERRA Caribbean. They are known to have operations in the region. I think they might be in Grenada and Barbados and St. Lucia. So already they are contributing to exports. I do not have the export figure. What I do have is the export figure for business services, and they are included in

that, and that would have been a figure of about, in 2018, about US \$43.6 million. Unfortunately when we look at business services, the imports were a lot larger. So there is a terrible imbalance there to be fixed, and real estate can contribute to this, and clearly this is an area for growth now that the sector is regulated. Even from the perspective of trade, I looked at new trade policy which is the policy which would take us into 2023. The policy does not have real estate services as one of the key services industry for development of exports. Tourism is their education, health and wellness, financial and professional services and so on. But again, I want to say it is valuable and it can find itself as an industry contributing to the development of the services industry, and for the exports of services.

And again, even at the level of Caricom, and I am going to go quickly from this point, there is a regional strategy for the development of services as well. The CARIFORUM Caricom Regional Services Strategy, and again it does not speak to directly the real estate services industry, it speaks to a professional services strategy, and in that strategy it creates an opportunity to have one regional single registration initiative together with draft model legislation. Again, the industry is not covered by the legislation but I see them being included under the professional services strategy. So, I think that there is every opportunity to raise the competitiveness of the industry so that our real estate professionals can in fact benefit and grow.

I spoke about a second very important aspect of this Bill, and that is because—and AG spoke about it fleetingly as well—that there is money laundering involved in real estate, and that is a very real issue, because criminals just absolutely love real estate, and you can find, even in Trinidad and Tobago, there are many of those who engage in money laundering and they would buy up properties in Bayside and the Summit and in the Renaissance and so on. And they

must be stopped, because really when they reside there, and many times they just leave the property empty and come on occasion moving from one property to the other. But they are really disrupting the peaceful and safe lives that those residents are enjoying after they have made their considerable investment. So, in many instances there are ill-gained financial—ill-gained proceeds caught up in the purchase of buying real estate, and this is definitely linked to crime.

As I said, in Trinidad, but all over the world as well, in Manhattan, in Knightsbridge in London and so on, in Vancouver, in Canada and so on. It is a real, real problem. And AG spoke about the large number of suspicious transactions globally. My understanding, when I did my research, and I got this from ACUITY which is a global risk company. There is something like US \$1.6 trillion a year. US \$1.6 trillion a year in terms of ill-gotten proceeds wrapped up in real estate and so on. And usually they do that by using a shell company, and it is something that countries have to deal with, and I am happy to hear that we are dealing with it. And this is not the only occasion when this Government has dealt with this aspect. Again, AG also introduced the explain your wealth Bill in 2019, the civil asset recovery and management and unexplained wealth Bill, 2019, which some people thought was quite a draconian Bill and so on, but we know why. But, again, all of these opportunities by this Government to deal with money laundering and ill-gotten wealth and so on. So, many countries are being progressive, and Trinidad and Tobago here is being progressive by introducing this piece of legislation, and ensuring that this whole aspect of dirty money being involved in real estate is in the past.

The other reason why I was so pleased with the Bill is because it favours the consumer, and I say so because of the very construct of the Bill. In clause 5, for instance, what is spoken to is the exception of who is not regarded as engaging in

real estate business. So in a sense we are protecting the purchasers of property here, and those seeking leases. For instance, if you are giving legal advice you are not engaging in the real estate business, and of course if you are acting under a power of attorney, if you are a developer, if you went through some of these, if the person is employed by a financial institution. In other words, if you are a bank and you are dealing with property transactions and so on, you are not regarded as engaging in real estate business.

So, I like the fact that clause 5 speaks to the exceptions. And then again in clause 10. Clause 10 addresses the disqualification of an agent, and gives the grounds for such. For instance, if you are involved in fraud or so, if you were convicted of particular offences, et cetera, you will be disqualified. And then of course the public also has the opportunity to object to an applicant's registration. And that is another area of protection. The Bill also very generally deals with professional misconduct, and this is by virtue of clause 47. The Bill is distinctly clear in defining what constitutes professional misconduct by a real estate agent. Things such as dishonesty, incompetence, impropriety, negligence, identity theft, poor documentation and records of transactions, knowingly making false or misleading statements, and committing fraud, lying by omission, acting as a dual agent without informing the client, issues—breaches of the code of ethics and so on. And Sen. Mark raised the issue of the Bill not including a provision for a code of ethics, and that is not so, and that tells us that he really did not read the Bill; and I will come to that.

And, of course, the Bill also provides for disciplinary proceedings, and the setting up of the Disciplinary Committee under clause 54, Part IX of the Bill. As I said, Sen. Mark made a big brouhaha also about the fact that AREA had been left out. But really the Bill provides for a governing body called Real Estate Agents

Association under Part IV, from clause 21 onwards. Because he said that real estate agents would be left out, but this is far from the truth, because the association, the Real Estate Agents Association, allows for a maximum of 10 members. But the legislation only provides for four specific members, that is the president, the vice-president, the treasurer and the secretary. And in any event they only speak to—the legislation only speaks to specific requirements for four members, and remembering that you in fact allowed 10.

[MADAM PRESIDENT *in the Chair*]

And two of those four members are persons involved in the business of real estate. It only provides for two other non-real estate persons, and that is someone with experience in finance, and also an attorney-at-law with five years standing. But other than that, there is room for six additional persons, and those six persons could in fact be all agents, the Bill having provided for two persons with real estate experience, the Bill actually in that governance body, in that governance arrangement, allows for at least, perhaps up to eight persons being real estate agents. So, I think Sen. Mark's concerns are really ill-founded and, as I said, this Bill is well-constructed and really provides for the participation by existing members of the real estate—of AREA who may wish to be part of this governing body. Sen. Mark also raised this issue about, yes, the code of ethics.

**Madam President:** Minister. Minister, you have five more minutes.

**Sen. The Hon. P. Gopee-Scoon:** Yes. Sen. Mark also raised this issue about the code of ethics, and clause 80—as I said if he had read the Bill to the end, clause 80 provides for the establishment of the code of ethics of real estate agents, and this is by Order of the Minister, or on the recommendation of the real estate agents Licensing Committee. And I looked at the standards of ethics by the National Association of Realtors in the US, and I am very pleased with what it provides for

in terms of. It gives general standards of practice, including duties to clients and customers, duties to the public, duties to realtors as well. It really makes for honesty and integrity and confidentiality and accountability within the business of realtors and how they organize themselves.

So, I have to close, Madam President, but do we need them? Let me answer that question. Yes, we absolutely need these real estate agents. So, what we are doing here is a tremendous services to, as I said, legislating and formalizing them. They are the ones who work very hard and help us when we are purchasing or leasing properties. They understand the business and how to get it done. They are the ones who help you to get all the clients, they are there to understand your criteria, they do the matching, they are involved in negotiating, they are familiar with the business of contracts and the conditions therein. As I said, they protect you. They protect consumers. And, again, when in fact the code of ethics is set up this will certainly add to ensuring that this business is one, and one that fits well with what this Bill intended to do which is to ensure that there is honesty, and there is integrity, as I said, confidentiality, accountability in the business of real estate. Thank you, Madam President.

**Madam President:** Sen. Hosein. [*Desk thumping*]

**Sen. Saddam Hosein:** Thank you very much, Madam President, for recognizing me to join in this debate on an Act to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession amongst other things.

And, Madam President, this particular piece of legislation comes at a time where we are probably only a few weeks again until the official close of this Parliament, this Fifth Session of the Eleventh Parliament, and we have seen that the Attorney General in this pandemic, has continued to push particular pieces of

legislation through this Parliament for whatever reason, and this one I have seen some level of rational or reasonableness in bringing this legislation, simply to say, Madam President, it is that recently, if you remember, the Attorney General travelled to Paris where, when he went there Trinidad and Tobago was assessed in terms of a mutual evaluation by FATF. And this Parliament, in particular this Senate, has engaged in over four years of passing laws to treat with money laundering and counter finance terrorism. And this particular Bill that we are passing, Madam President, falls within that landscape, or it is contemplated by FATF that we need to regulate our real estate industry in Trinidad and Tobago.

This comes in the background, Madam President, because in this industry that deals with land, fraud is very common. It is not something that is foreign to these transactions. And I have some statistics, Madam President, that I got from the Law Association through a seminar entitled, "Fraud and Identity Theft in Conveyancing Transactions and Certificate of Title to Property". And, Madam President, it shows that in four years, we are looking at 2014, 2015, 2016 and 2017, the number of reports have increased. From the year 2014 there were 45 reports of fraud amounting to \$16 million, and in 2017, 75 reports of fraud, amounting to \$17 million. In 2014, Madam President, you would know that there were 20 deeds that were expunged from the registry as a result of fraud. In 2015, 30; in 2016, 27; in 2017, 51 deeds.

What this shows is that the 51 persons whose deeds probably were expunged in the year 2017 meant that they lost their property. And in Trinidad and Tobago land is something that is very valuable. That is not something very small. These are life investments that persons make. Persons save for their entire lives, they work for their entire lives, they pay mortgages, just to own a property in which to live on. And then, Madam President, you have certain persons in society that will

take advantage of a situation and rip off these persons of their life investment through fraudulent transactions. So we are saying on this side that, yes, we welcome the industry to regularize fraud in terms of the real estate agent to prevent fraud from occurring.

**12.15 p.m.**

Madam President, in this particular piece of legislation this deals specifically with only real estate agents and developers. And when you see what the legislative intent of this particular Bill is, it is really to create a registry and a registration system and a licensing system whereby sale associates, brokers and developers will now be falling under certain registries that are maintained by the Office of the Registrar General. The second thing that the Bill does is establish the association. The third thing, is it establishes a Disciplinary Committee and then the fourth thing it establishes the Licensing Committee. And I want to make some points in terms of the composition of these committees.

Madam President, when you look at the association, for example, you would see that the association would be made up of registered members of the industry. Members who are now required to register and licence under this particular legislation in order to practice the real estate business. And you would see that there were four persons or four officeholders that will comprise the association. It is the:

“...President, the Vice President, the Treasurer and the Secretary.”

That is found at clause 22 of the Bill, Madam President, Part IV, Real Estate Agents Association. And obviously these persons will have to be elected by its membership. But you must remember, Madam President, that this Bill has a transitional period of about 12 or 16 months. So what is going to happen in that time of the transition period? Because now you will have persons who will have to



be approved by the Registrar General in order to practise.

So, Madam President, we are asking on this side that we have an association in Trinidad and Tobago that is well established, incorporated under an Act of Parliament, Act 10 of 2012, the Association of Real Estate Agents, allow them a part to play in the transitionary role from this system into the new system. [*Desk thumping*] The Attorney General boasted about the yeoman service that this particular group has done for Trinidad and Tobago. Well, allow them to be a part of this transition period to make it more smooth. We all know what is happening at the Registrar General's office, Madam President. Without anticipating, there is another Bill on the Order Paper that will increase the burden of the Registrar General's office and in this particular Bill you are now increasing the burden even more because you are asking for a register to be maintained by the Registrar General for sales associates, for brokers. And we all know what happens at that office in terms of resources and understaffing.

So allow an association who has the expertise, who has the experience, who has the competency, Madam President, to be a part of this process. This particular piece of legislation has completely isolated AREA from the business of real estate. It has now taken a position, the Government that is, has taken a position where they have placed their executive hands in terms of the control, the regularization and the supervision of this particular industry. And we are asking, Madam President, that there must be some more inclusion of the membership. So that is the association I dealt with in terms of representation by AREA.

I want to move on to the Licensing Committee, Madam President. And just for those who may be listening to us on television or on radio, under the new system a person has to be registered under the Act to practice and then they must get a licence in order to practise. Now the Licensing Committee will deal with the

licences. But this is the membership of the Licensing Committee. It deals with that:

- “(2) The President”—meaning, that is, the Cabinet—“shall appoint the Committee comprising seven members as follows—
- (a) a Chairman”—who is—“an Attorney-at-law...ten years”—experienced—“on the advice of the”—JLSC.
  - “(b) a Deputy Chairman, being an Attorney-at-law...ten years’ standing...on the advice of the”—JLSC.
  - “(c) an Attorney-at-law...seven years’ standing...on the advice of the”—JLSC
  - “(d) a person with experience in accounting business or finance, nominated by the Minister...”—and that would be the Minister in charge of legal affairs.

And then you have:

- “(e) two persons”—only two, Madam President, who have—“five years’ experience in real estate business nominated by”—who—“the Minister;”

Then you have one representative from the THA.

Now, the problem I have with this composition, Madam President, is that you are bringing foreign persons to now rule on licences, the majority of the members who sit on the Licensing Committee may not have any experience when it comes to real estate, but you only have two members of that committee who have experience in the real estate business, but it is not coming from AREA, it is not coming any other real estate agency or body, it is coming from the Minister. Why is the Government trying to keep their executive hands placed unto this industry? Why you do not give the person with the competency, the experience,

Madam President, an opportunity? Why it is that persons who have to serve on this Licensing Committee should not be nominated by the body that is recognized as the real estate agency?

Then you have the other body which is the Disciplinary Committee which is found at clause 54 of the Bill. And at clause 54 of the Bill, this is Part IX of the Bill, Madam President. It establishes a Disciplinary Committee which comprises of seven members, seven members again appointed by the President. And it goes like this:

“(a) a Chairman...on the advice of the”—JLSC

“(b) three Attorneys-at-law...seven years’ standing, appointed on the advice of the”—JLSC

So that is four members. Then again, two persons with at least five years’ experience in real estate business; and one broker with at least five years’ experience.

So again, you have four members who are not experienced in real estate and just three who are experienced in real estate. Now the problem I have with this is that these persons will now be performing a quasi-judicial function. They will determine whether or not a broker, they will be determining whether a sales associate, they will be determining whether or not a developer would have met the required threshold to see whether or not they can be disciplined.

Now, who is best to determine whether or not a person reaches the professional conduct and standard of a business or a particular industry? It is persons who belong to that industry. Just like the Law Association, if you fall below a certain threshold of conduct, Madam President, you know we can fall afoul or breach the Code of Ethics which can result in liability, the attorney-at-law incurring liability.

Now, in this case you have foreign persons who are judging the conduct and the standards of real estate businesses. Why again, Madam President, and I am calling allow persons in the industry to nominate, to appoint, to advise the Cabinet in making these appointments. Allow them to do so. And what is strange is that you would see that all the attorneys-at-law who are going to be appointed to sit on these committees are going to be appointed on the advice of the JLSC, which means that—I would ask the Attorney General to clarify this. It is whether or not Cabinet can disagree with the option of who the JLSC would have nominated. Because if you had inserted the words “in accordance with the advice” it means that it is a mandatory appointment. There is a next terminology that is found in the Constitution in consultation with the advice of the JLSC.

So I want to ask the Attorney General, if Cabinet does not or is not satisfied with the nominees that are placed by the JLSC, whether or not they can differ with what appointments or persons nominated by the JLSC has placed on them. And again what this shows again, it is executive overdrive. It is the Executive keeping their hand on this particular industry. And we have, Madam President, to ensure that this does not happen. We have to ensure that this association, this industry, is allowed some level of breathing room. Because I looked at different jurisdiction, I looked at The Bahamas, Madam President, for example. In The Bahamas when you look at the legislation there you would see, for example, and I am quoting from The Bahamas Real Estate (Brokers and Salesmen) Act. At section 25 of that Act, Madam President, there is something called the “Investigation Committee and the Disciplinary Committee”. And you would see, Madam President, that that committee is made up of:

“(a) a Chairman who”—will—“be a member of the Board”—similar to us;  
and

“(b) not more than seven other”—members—

“(i) three of whom”—are—“appointed by the Board”—which is similar to our association; and

“(ii) four of whom shall be appointed by the Minister from amongst persons who are not members of the Association.”

And when it goes on, Madam President, you would see that it allows some level of inclusion of the BREA which is akin to our AREA in Trinidad and Tobago. In New Zealand you see the same thing.

Now, I heard that the Minister of Trade and Industry and normally I am very impressed with the Minister's contribution but today I was very disappointed. And I say because it seems as though the Minister did not read the Bill before she came to the Senate, it seems as though that the Minister did not properly analyze the clauses of this Bill, it seems as though she read from a prepared speech. And I say this, Madam President, because the Minister said that we are making a brouhaha about AREA being left out. Well yes, they are left out and we have right on this side to advocate for that.

**Madam President:** Sen. Hosein—

**Sen. S. Hosein:** Madam President, when you look—

**Madam President:** Sen. Hosein, you have five more minutes.

**Sen. S. Hosein:** Thank you very much. When you look at the appointments, why is it that most of these appointments are not being made with the consultation of the association? Then the Minister went on to say that this will favour consumers. Madam President, I would have you know that in order to now practise real estate in this country this is what will happen. These agents will be required to pay a licensing fee. They will be required to register and now it is mandatory that they have professional indemnity insurance. What does that mean, Madam President?

It means that the sale, the cost of land transactions in Trinidad and Tobago will increase, it will increase. So when the Minister said that this Bill is favouring consumers, I do not know which consumer they are favouring, but it is certainly not the ordinary citizen in Trinidad and Tobago who uses their entire life savings in order to make an investment in land to build a house for themselves and their families.

There is one other very small part of this Bill I would like to touch, Madam President, and that deals with the definition of dual agency. Now, dual agency according to the Bill will now be—an agent will be facing disciplinary action for that unless they disclose to the vendor and the purchaser that they are acting for the both. Now in England I believe it was abolished, but there are some jurisdictions that maintain it and the current definition that is found in the Bill that deals with dual agency, it is very silent. The definition is silent on whether or not the persons have to be monetarily compensated. It all talks about representation of both parties but excludes any issue that comes about monetary remuneration. And this is something I would ask the Attorney General at the committee stage which we can look at in terms of tightening up the definition. Because there will be a lot of agents who can in fact fall afoul of this particular provision and face disciplinary action if they act as a dual agent.

So, Madam President, while on this side we say that we agree with the regularization of the industry, we also ask that persons in the industry not be left out and that they are part of the process. That is what a democracy is, Madam President, and I thank you very much. [*Desk thumping*]

**Sen. Dr. Varma Deyalsingh:** Thank you, Madam President, for allowing me to partake in this Bill. Madam President, first I say that the Bill seeks to do three things actually; to regulate the real estate profession and they are in need to be

regulated; to protect the public and assist persons and engage in land transactions and also to assist in preventing and detecting money laundering and terrorist activity. So three main importance. One looking at the real estate agent, then the protection of the public and also to fit in with the FIU regulations. And it is needed. And I say, yes this is quite needed and even I want to quote, Madam, Thursday 16<sup>th</sup> of May, 2019, a *Newsday* article:

“Criminals using real estate for money laundering”—by SHIRVANW.

And actually a police officer gave the whole idea that the criminal elements are abusing the real estate industry to hide their money. And even an article in *Forbes*, November 21, 2018, Vishal Marria:

“...warned that foreign criminals were using the UK property market to launder their dirty money.

“The lack of regulations”—made—“real estate...market a refuge for criminals to clean funds...to avoid taxes.”

And in this article they said that this caused a great impact on the property market, because then the average prices of homes people could not afford because they were being bought out from foreigners, they were being bought out by these drug lords and again this would have had a social impact on the ordinary man to really afford property.

So that social impact I am thinking we have to look at the—if we could help this with this piece of legislation. Also they mentioned:

“Developers are now prioritizing more profitable high-end luxury homes that are popular with foreign investors.”

So the social impact is there. We have to ensure that the money is not put into property that will elevate their prices and the small man now will be at a

disadvantage. So the affordability of persons to live in property is something that we have to look at as much as we can help these persons.

Now in that article they mentioned also that when they looked at the fact that—properties were being bought out and sometimes unoccupied and then you have what you called ghost communities that came in. Because if you develop a land and the owners are brought by this there is no infrastructure, nothing going on there, nobody maintaining and it loses that little ecosystem where you have workers working in that property. So the economy itself is not stable. And it did mention the fact that suspicious activities, when they look at suspicious activities, somehow the real estate agent did not report a lot of the infractions that occur. The independent legal persons gave, accountants gave, but there was a miniscule reporting.

So therefore the legislation to look at these companies, to identify, I think it is something that we need to look at. And what I am saying, Madam President, we may have to look at the fact that if an overseas company comes in here to buy property we may have to let them, not hide behind companies, we may have to declare their owners that could be visible for foreign policing services also. So we actually will have to look into that. In the United Kingdom story they first successfully:

“...targeted a house worth £11.5 million in West London,...purchased by a company”—from—“British Virgin Islands...Zamira Hajieva, the wife of an IBA banker”—was—“convicted for embezzlement...”—because she could not explain her funds.

And this is what the Attorney General has been trying to say. You have to go after it, it is a dream peddled by him. But you see this brings up other things that I would like to see here. Because remember in Tobago foreigners come and



buy land. We have to look at if those foreigners who buy land is a new way of colonizers coming into their Caribbean, owning property, increasing their wealth, denying national prices. So it is really, it is like capitalistic foreigners invading our country and—capitalistic manufacturers or bandits, and we have to look at these foreigners coming in and guard it, look at the real estate money coming in and being hidden in our economy.

And the thing is the Attorney General did mention \$23 billion in suspicious activity. This is a lot. And I mean, his hands are now ready to go dipping and finding these personnel. But, Madam President, the majority of realtors I know are honest people, people who probably—retired teachers, retired individuals from public service, who went and actually went into this to make their money, housewives, they go in. So most of them I know have honest veins in them.

However, the figures show startling result, something is going on, something we need to look at. And you see the thing is, I remember once when I was in the United Kingdom and I opened a magazine and I saw a glossy advertisement for land for sale into Tobago. So therefore you have to appreciate that these realtors could have far reaching consequences where they could advertise country to country for sale. And the Attorney General said the land is our national asset. So therefore we have to look and be cautious of these things happening.

You know post-COVID, Madam President, I fear that what may happen is that certain real estate agents will not be able to make it. It is a fact because people will not be able to buy. So I fear for them. I also fear too that certain cliques may come in the real estate agency, certain corporate run the estate entities could rule the market and some other small agents may be forced out. So a few of them remaining may be like crabs in a barrel and may try to somehow bend the rule. So we have to appreciate, we have to have rules and regulations.

This piece of legislation, Madam President, I was disappointed when I saw that clause 3, that the developers were basically left out. The developers are the ones who target the foreigners, who try to bring them in. And you see what I am saying there, for maximum transparency might actually reach at some of those people who may be using this real estate to hide money, I am thinking the developers should have been there, or I am hoping some other legislation comes in to place that would satisfy this. So we know, Madam President, that people tend to hide behind companies, people's names you may never see and this is what I am saying the transparency in who own lands, who owns companies has to be above the payment, has to be something. And I remember there were instances in the US a few years ago when they approached Trinidad and Tobago to see which of their nationals had bank accounts in Trinidad. And I think it was some sort of arrangement they try to make.

So again having, naming these individuals who come to buy properties here would also assist the United States in their fight to stop this. We all remember, Madam President, I hesitate but I have to raise the ghost of Johnny O'Halloran and Francis Prevatt. We have to remember in the song "immortalised Panama" by David Rudder, he mentioned about the money that left here. He said 1,000, some say, 10,000 some say one billion and he spoke about the land in—you know people realized lands were bought in Panama, lands were bought in—most were bought in Canada. So we have to see people who actually occupied these hallowed Chambers actually part took in this same thing we are trying to avoid here. And I commend the Prime Minister of bringing this up. Even I have to bring mention to the fact that a "carpetbagger", as he was described by our Prime Minister, Dr. Keith Rowley, Calder Hart was described as a "carpetbagger" and again immortalized in a song by Hollis Liverpool where he spoke about corruption and

there were instances where we had listing from the Uff Commission about properties owned, five apartments in Woodbrook, one in different places and other places, Goodwood Park list.

Madam President, we have to get at the root of this. We have to get the corruption out, we have to show the younger persons that Parliament is serious in passing legislation where corrupt politicians should be held accountable. Because a corrupt politician is in a degree of trust and we find that young people looking out there will want to see and would want to hope that the country could get better. And even in China if you have a corrupt public officer they have their penalty. Here we should probably have some mandatory life sentence, without any sort of bracelet, for any public officer, any Minister that is involved in any sort of transaction that brings the country, that brings the taxpayer into—some of the taxpayers dollar going into corruption which denies persons medical care, decent living, poverty, radiation.

So, Madam President, I must say there is even in the USA there is the former President Trump campaign chairman Paul Manafort. He was charged for money laundering through real estate. He renovated and sold properties US 18 million and he was in lobbying, real estate purchases amounted to 6.4 million. And you see this shows that the hands of corruption goes right through. And very important he was a campaign manager. So campaign finance reform I think should be something in our agenda.

Now, I want to make mention to the fact that there appears to be strange relationships between the United States and Trinidad and Tobago. And I must say there was an article where and I would like to quote:

“United States Worried Over Lack of Money Laundering Convictions in Trinidad and Tobago”

And it was in *Pride news*, April 10, 2018. And they said:

“...despite...bringing cash seizure and forfeiture cases to the courts, there have not been any money laundering convictions...”

They did praise though that we have a good:

“...relatively stable economy”—a good—“developed financial system”—but the “close proximity to drug-producing countries...”—makes us a target for criminals and more target within the whole Caribbean.

This is why we have to show as a nation we have laws there to help. And they said even though there were 13 financial prosecutions, there was no convictions to date. And the lack of the AMC supervision or giving them more teeth was one their reasons they give.

Madam President, Part VII, clause 47, would definitely assist this part where you have fraudulent real estate agents on the prowl, there are good ones, there are bad ones. And there was a situation where recently 68 persons bought lands in Cedros and out of that seven millions were paid. They went to a real estate agent and they were all tricked. So when you see things like that happening in Trinidad you see, yes, there is definitely a need to have real estate agents under some sort of guidelines, some code of ethics, some level of having these real estate agents looked at.

And, Madam President, I would like to I say I heard a lot of phrases made to the AREA, real estate agencies which I think came about—I think that group was incorporated as an Act to Parliament, I think when Mr. Bhoë Tewartie was a Minister and I think he got backing from our present AG then. And they did a good job, they did code of ethics. They brought education, they actually tell people how to run things. But you know their membership is not much. When you have about 700 persons who are real estate, 700 to 800, only 78 resident

brokers, 112 sales associates and 17 corporate members are members of AREA. And I asked a member, why are you not joining this group? And this lady from Rio Claro who is a real estate agent, she say, “Doc, all I do is sell a little land, get a little money and persons in Port of Spain that is a sort of”—she described it in a way that, it is like a plantocracy elites of persons in AREA. So not everybody would be thinking they are welcome to AREA.

**Madam President:** Sen. Dr. Deyalsingh—

**Sen. Dr. V. Deyalsingh:** Now, my problem is this.

**Madam President:** Sen. Dr. Deyalsingh.

**Sen. Dr. V. Deyalsingh:** If we are now going to have.

**Madam President:** Sen. Dr. Deyalsingh, you have five more minutes.

**Sen. Dr. V. Deyalsingh:** Sure thank you, Madam. If we are now going to have this real estate association brought to fact, I am thinking yes AREA members could join but we have to encourage the small man, we have to encourage the small real estate agent to feel welcome enough to join this association that is now going to be put in law. So you see the real estate association has to be welcoming to the interest of all these agents. And, Madam, when you now changing this law and you are now asking membership to come and vote for president and vice-president, remember first you have to register these people and these people according to one of these stipulation they have to be 18 years and they have to do some sort of exams they have to get also. I am thinking in this period of transition we have to have some way of factoring those persons who are real estate agents for years, grandfather them in, let them come in as real estate agents, they would not have exam, they might not be able to do exam, factor them in, give a period or a sunset clause where after a year you have to get your exam, but factor these individuals in who can now combine with the AREA personnel who probably did little exams,

courses and you get your membership and then we can move forward.

I have mentioned already, Madam President, that I was disappointed in the fact that the developers were not factored in. I also have a little concern that state agencies were not factored in.

**12.45 p.m.**

Because, Madam President, the State deals with property, Fidelis, Federation Park properties. We have seen<sup>0</sup> in the past—I think just recently Mr. Rambharat had to deal with grand larceny of state lands where people working under his department, senior officers, were involved in a land deal. We had cases where—I remember people questioned the Jamaat land deal in Mucurapo. Then remember in 2000, I think 2004, a Minister of Public Utilities was questioned about WASA houses being sold to WASA management. Recently, in Greenvale, people were occupying houses and they did not have the permission. So we have to be more transparent also, not what is going on in the real estate agency out there and transactions, but transactions that occur within the ambit of what pertains in the State. So those are things I think needed to be put in, or if it will come in further legislation I welcome it. I want to say that the obligation to put developers to register in a prescribed form of register in clause 6 is commendable, because we need to know who are the developers because remember they may be involved in doing some activity.

Madam President, Sen. Mark said this is a convoluted piece of legislation and I have to agree with him because I am seeing you are giving an association teeth, then you are also looking at the Licensing Committee and the Disciplinary Committee. Madam President, in the medical association we have members there who are doctors, but the IRO has a member, the ECATT has a membership, the Law Association puts a member to give a balance. So it is not just doctors who are

controlling doctors and not disciplining doctors. So I am suggesting instead of having three different entities, have one entity, but factor in in that entity, yes, the people who are voted in, but you also factor in a member from the IRO, a member from Transparency International, even if the JLSC wants to put a member, put them in, and the National Land Tenants Association. So you balance the real estate agents with these individuals. So the real estate agents could not form cliques, be a law unto themselves, and they can still have the quasi-judicial function that we have in the medical association. They could still form that function and at least be able to discipline members and be able to function in that way instead of having Disciplinary and Licensing Committee. So this is where I look at this.

I was a little concerned about the mandatory joining, if that would breach the Constitution, and I also looked at the fact that—I made mention the fact that the factoring of the other real estate agents who have been in business for years need to be looked at. It is unfair to tell people you are a real estate agent one day doing business and then all of sudden, no, because of some regulation you stopped—practising for years. Start afresh after, and I think when we do this we would be able to have more professionalism in this area that is needed. We will be able to protect the individuals out there from unscrupulous real estate agents and we will also be able to look at the developers later on and look at other entities that were not really included.

I thank you, Madam President. [*Desk thumping*]

**Sen. Sean Sobers:** Madam President, thank you for recognizing me this afternoon to make my contribution on an Act to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in real estate profession to protect and assist persons engaged in transactions, and as

the Bill in title goes on further.

When I looked at the Bill, Madam President, what definitely caught my eye was the aspect of the prevention of money laundering, and terrorist financing, and other related matters, and I can indicate that being a practising attorney-at-law myself, I have been involved in matters where I actually saw elements of these types of activities being manifested in this particular area of conveyancing that apparently has been going on for quite some time without proper regulation and I would get into that a bit later on, because I think many persons who are aware that we are actually having a discussion, a debate, on regularizing or putting a framework in place for the regularization of real estate agents, do not really understand the dangers of actions related to that particular profession being unregulated.

The corrupt practices that take place in some instances, the loss, as Sen. Hosein would have indicated, too many persons who would have worked extremely hard to procure property over a particular period of time, and fraud in real estate transactions, and anti-money laundering, and counter financing of terrorism, is a very real concern that the Opposition definitely has with respect to an unregulated profession such as this. Sen. Hosein would have touched on the fact that as recently as in 2017, the Law Association in a public presentation in 2017, themed “Fraud and Identity Theft in Conveyancing Transactions and Certificate of Title to Property” , noted that there had been a general increased in a number of cases of fraud involving transactions with real property between 2014—2017. They went on to indicate that in many cases fraudsters utilized the services of an unsuspecting, or even complicit real estate agent to procure these fraudulent transactions without any legislation at that juncture to regulate the activities of real estate agents and without any obligation for them to be FIU compliant; an innocent



purchaser may be unable to determine the bona fide of the real estate agent for the particular transaction.

This legislation is necessary to assist in reducing the prevalence of fraudulent misrepresentation in real estate transactions. While fraudulent misrepresentation can be prosecuted as a criminal offence with sentences of imprisonment imposed, this may not necessarily result in the recovery of some spade in a transaction. The number of cases of such fraud reported by the TTPS, as Sen. Hosein indicated, rose exponentially between the periods of 2014—2017. Also in its AML/CFT guidance for the real estate sector, the FIU of Trinidad and Tobago also stated it “entitles” operating within the real estate sector a subject’—entities rather, sorry:

“...operating within the real estate sector...are subject to POCA and the Anti-Terrorism Act... However, further obligations are imposed on those business activities which face a greater risk coming across crime proceeds and terrorist property.”

They went on to indicate as well to that:

“Various reports produced by the”—Financial Task Force—“over the last few years have made reference to the fact that the real-estate sector may be one of many vehicles used by criminal organisations to launder their illicitly obtained money. The real estate sector merits close consideration given the large scope of monetary transactions, its significant social impact, and because of the number of cases in which money laundering and, in limited circumstances, terrorist financing and tax fraud schemes, have been detected.”

All AREA members must be FIU registered, however, the lacuna exists that not all real estate agents are member of AREA and therein lies the problem.

Madam President, if you would permit me, let me from a real life experience

as well, to paint a picture of how dangerous an unregulated industry as this one could have on unsuspecting members of the public. Throughout the length and breadth of Trinidad and Tobago one must only just simply take a leisurely drive and you would recognize the amount of properties within our country that are dilapidated in nature that many persons are not aware as to who the owners are, and if they had some inkling or an iota of an idea as to who these people are, the most they could tell you is that: I know that person; I think his name is Jim; he was around when I was a little boy; I suspect that he may not be in the country. And what happens is that there are persons who pretend to be real estate agents who would take that leisurely drive, identify these properties that exist throughout the length and breadth of our country, and then go down to the land registry—because it is a public registry—procure the deed information for that property and then start to pass the property off as they themselves are a real estate agent acting on behalf of this owner who is no longer present.

And what you would find happening is that persons have gone as far as procuring false identification cards in the names of the owners of the property, procuring bills attached to an address in the name of the owner of the property, and then engage in an actual conveyancing transaction where unsuspecting as the law recognizes them in some instances based upon the defence raised, unsuspecting bona fide purchasers would come, engage in the transaction, make a purchase of the property, and then only later on in some instances months, some instances years after because the statute of limitation on fraudulent transactions really occurs subsequent to the aggrieved party understanding that they have been defrauded, years later take action against these bona fide purchasers.

And I thought to myself when I was a part of a matter that had engaged the court's attention with related facts and circumstances, that why would someone

engage in that level of fraudulent activity, taking the drive around, procuring the deed, getting the fraudulent ID card, getting the fraudulent signatures and the fraudulent bill to demonstrate proof of address, why would someone engage in that level of fraud to actually engage in that level of fraud? And I was told by the member of the Fraud Squad when we reported the matter, “Well chief, you have to understand this particular man in your client’s case made away with \$800,000.” Eight hundred thousand dollars and his output to so procure those funds may have cost him \$40 in gas and a 2,000 or a 5,000 to bribe whoever it is he had to bribe to get the ID card and to get the bill in his name; \$800,000.

And thankfully as a country, recognizing that this is an unregulated industry and that these acts of fraud could constantly occur, most of the stakeholders within our country have taken the approach or adopted the approach in some instances to create situations or create processes to limit the amount of fraud in those situations. So an unregulated industry like the real estate industry is a huge, huge problem. It has been for quite some time. The example that I gave is something that in some instances still occurs. I expect that the current number of fraudulent reports to the Fraud Squad in Trinidad and Tobago has risen exponentially, and the amount of moneys that persons have been defrauded would concurrently rise as well.

In looking at the Bill itself, Madam President, I focused throughout the length and breadth of the Bill, but I would like to begin on page 12, clause 12(3), and there is also a similar provision on page 16, clause 19(5), and these two provisions deal with the appeal process. Now the Bill contemplates the setting up of different committees throughout, a Disciplinary Committee, a Licensing Committee—the Register General having the power to actually register real estate agents as well too—and in consultation with some real estate agents what they would have indicated is that they did not understand why the appeal process could

not have gone to one of these committees as opposed to going straight to the High Court. They were concerned as to the cost that would have been connected with this particular appeal process, and what we have to understand and appreciate is that a lot of real estate agents or the practice of being a real estate agent in some instances, because it has been unregulated for some time, is an ad hoc practice. So there may be persons who may be properly aggrieved but really do not have the money because they are one of the smaller real estate agents who do this as a side practice or something, that may not be able to afford this process of appeal that is envisioned here through these two particular sections.

I also looked at page 15, clause 16(2). Now clause 16(2) deals with the actual registers being created by the Registrar General's Department, and it calls for a payment of a fee by the public to access this register, and I am thinking if we are moving towards regularizing the industry, especially to the benefit of both the real estate agents and to the public, it may be beneficial that this particular registry is one free for any member of the public to walk off the street to see who are registered real estate agents so they will know that the individual or individuals that they are treating with are bona fide in nature.

As well as I am thinking, especially because it has been touted by this particular administration that they are moving to have many services online, that the registry should be accessible online as well too so persons can stay from the benefit of their home and access the registry. The registry as well too in this particular clause deals with the payment of a fee by the real estate agent in the event that they want to change or delete some aspect of their registration, and I think to place some type of charge on that may not be as beneficial as we would think it is. You know, it is cumbersome, it is not as tidy as the rest of the Bill would want to proffer itself to be.

Further down on page 15, clause 16(5)(b) allows for the access of that private registry by certain entities, (a) is the “Supervisory Authority”, but (b) is simply “for the purposes of the law enforcement or court proceedings”. And I could understand “pursuant to an order of the Court; or where required under any written law”, but just to have it simply as for the purposes of law enforcement as opposed to the purposes of law enforcement once a warrant has been procured, it leaves it extremely wide and available for any member of any law enforcement agency to access that private registry, and I think it defeats the purpose of having sufficient checks and balances in place for that access to be limited in nature.

I listened to Sen. Hosein speak about the composition of the committees, both the Disciplinary Committee and the Licensing Committee, and I would definitely have to agree with his submissions. I would not go into them because I think he dealt with them as comprehensive as they can be, but simply to add that if we are in fact creating or regularizing an industry there must be some level of buy-in or participation by the persons who would so be involved, and I think in terms of the experience allotted to some of these brokers and real estate agents who would be allowed to sit on these committees, the experience there is five years. I mean, there are many persons within this industry who have been practising this particular profession for decades. So I thought that the experience level of those persons should be increased as well. So there should be more buy-in by them, more participation by them at the level of these committees, and then the experience level should also be raised a bit.

Now I also looked at page 22 of the Bill, clause 35(b) dealt with the termination of a member of the committee. That termination aspect also exists at page 36 when we deal with the Disciplinary Committee and the termination of persons or members there as well, and at part (b) it simply says “for any other

reasonable cause". There is a flow, a process in itself with respect to the offences that can be committed by members of these different committees that would warrant proper termination. We have to remember that these persons would be operating in conjunction with some type of relationship with a Minister or—  
[*Interruption*]

**Madam President:** Sen. Sobers, you have five more minutes.

**Sen. S. Sobers:** Grateful please. And so, I thought for any other reasonable cause seemed to be extremely wide. And when persons are engaged in these type of regulatory positions, security of tenure is extremely important because you are going to be in relations with many persons who would be part of the organizations themselves and you would not want to be making certain decisions and have this guillotine hanging over one's head that you can in fact be removed for something as wide as any other reasonable cause, which there are many iterations that could fit in with that particular clause there.

So I think it should actually be removed as it seems to affect, in my humble opinion, a person's ability to discharge their functions reasonably enough. Now, there was also a view expressed by certain individuals with respect to the association having to fit the cost of the secretary for the committee, having to fit the cost of the office staff in terms of the Disciplinary Committee as well too. Persons were very opposed to that and they indicated that there should be a cost borne by the Ministry or the Ministry themselves as opposed to the association itself.

Now, Sen. Hosein touched on clause 47 which is located at page 28. Now clause 47 is the Disciplinary Committee clause and what it deals with is professional and misconduct as a matter of fact. Now in terms of duality of agents, Sen. Hosein touched on the fact that there are situations wherein one agent would

in fact act for both the vendor and the purchaser, and he is correct. In England, once that individual declares his or her interest it is generally okay once there is no duality of fees being charged by the agent on both parties, but what is not contemplated here is that there are many firms within our country, valuation firms that also double as real estate agent firms. I would not want to name some of those firms, but what happens is that you would visit this firm who would tell you that they will look for real estate for you and they will find certain properties or whatever the case is, and then when it comes time for you to take your mortgage or to conduct the purchase and you have to procure a valuation, they offer the service to you as well, and in some instances it could be seen as being mischievous that the valuation that they utilize or that they give to you is not in your best interest and does not reflect the actual value of the property. I am thinking that that should also be something that is looked at and regulated properly that you cannot be acting for the seller or the purchaser, looking for real estate for them, and then also providing them with a valuation report. Yes, valuations move along a more scientific and calculated approach, but still there have been elements of mischievousness that have been found to rear its ugly head when one firm is actually doing both jobs.

On page 37 there is also the issue of the Disciplinary Committee proceedings, that is clause 63(1) and 63(3), and it deals with where a complaint is being made by an aggrieved individual against an agent. It does not speak to the complaint actually being done in an affidavit form, and in the Disciplinary Committee of the Law Association it is done like that.

In closing, there are some things that we can tighten up and at committee stage, I will definitely raise them. Madam President, thank you for allowing me to contribute today.

**Madam President:** Hon. Senators, we will now suspend the sitting and return at 1.40 p.m. So this sitting is suspended until 1.40 p.m. When we resume, Sen. Deonarine will begin with her contribution.

**1.09 p.m.:** *Sitting suspended.*

**1.40 p.m.:** *Sitting resumed.*

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

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

**Sen. Amrita Deonarine:** Thank you, Mr. Vice-President, for the opportunity to contribute to the debate, rather late in this stage. When I start to think about the real estate industry, we have heard time and time again during the course of the debate that it accounts for around 2 per cent of GDP which, in dollar value, is around \$3 billion. But since 2012 to the period of the first quarter of 2019, the real estate sector has not really grown, it continues to account for around 2 per cent of GDP. When we start to look at real estate credit in the private sector, it accounts for around \$24.2 billion as of January 2020, and these figures are according to, first, the Central Bank of Trinidad and Tobago and the GDP figures is according to the Central Statistical Office, and that is real GDP that I am referring to. But the real estate industry, Mr. Vice-President, is considered an industry that is relatively high risk when it comes to money laundering and terrorist financing. According to the FATF Recommendation 28, real estate businesses must be submitted to strict regulatory and supervisory regime.

This legislation, in my view, introduces some structure and inflicts some control in the industry by regulating the profession. Right now, we have a situation where the required education, standard of practices, code of ethics are limited to two associations, the AREA association, the Association of Real Estate Agents and also, the Trinidad and Tobago Real Estate Association, the TTREA. According to



the FIU 2019 report, 25 per cent of non-compliant firms are those who come from the real estate industry. Between 2017 to 2019 suspicious activity reports and STRs moved from four reports to 13 reports. So what we have is a situation where many persons are operating in the real estate industry, they do not abide by the required standard of principles, the code of ethics, and the required education—I mean, not necessarily possess the required education.

So, as I said, the Bill attempts to introduce a regulatory mechanism which would facilitate supervision by encouraging transparency and accountability. How is it doing this? It is doing this by allowing the registration of sales associates, brokers, land developers. It is establishing a licensing committee, an association, a disciplinary committee. It is facilitating the maintenance of records for around six years for sales associates and brokers. It is ensuring education in the field, prior practising, and it is encouraging FIU supervision and oversight. That is just to name a few, Mr. Vice-President.

Now, Mr. Vice-President, I would like to give some brief comments on specific clauses of the Bill and it is related to public access to the registry, the renewal of the registration. I have one concern with the disapplication clause and the handling of money by the sales associate, and also, I have some additional comments on the keeping and maintenance of proper records.

So, the public access to the registry. Mr. Vice-President, I would have to agree with Sen. Sobers because I too believe that this registry should not be subjected to a prescribed fee. It should be free information to the public. I do not see the need for a cost to be attached to it. Data is something that is shielded in Trinidad and Tobago so much and it should not be the case. Registers should be accessible, free to the public and on an online platform, so the public could see not only the registered sales associates, brokers and land developers, but they have the

ability to look at all the real estate projects for which these sales associates, land developers and brokers are engaged in. This makes realty transactions hugely transparent. This was actually adopted in India upon the implementation of their Real Estate (Regulation and Development) Act in 2016. It resulted in significant improvements in the transparency of the industry.

I move on to the renewal of the registration and with respect to the renewal of the registration, I too have to agree with Sen. Seepersad, renewal for every three years can prove to be burdensome. You are subjecting practitioners to maybe unnecessary risk should any delays and malfunctions happen at the Registrar General's Department. Renewal requests, according to the legislation says that it must be filed at least a month prior to the expiration of your registration. The Registrar General has up to 30 days to make a determination. That is just to assess the renewal request; that is not actually granting the registration.

Risk of unregistered sales associates handling affairs of ongoing transactions need to be considered. Delayed registration would mean that they would have a period of time where they are actually practising illegally. Maybe consideration can be given to lifetime registration. But I hear the Attorney General's argument with respect to that, he is really trying to prevent defunct companies, defunct businesses, real estate businesses breathing on the Registrar General's records, but I would also suggest granting sales associates with a licence and have that licence be renewed for every three years.

With respect to the disapplication clause, Mr. Vice-President, the disapplication clause reads as follows, and I quote:

“4 ...a person employed by the State, a State-controlled enterprise or a public body who conducts real estate business, in the course of their employment.”

The law does not apply to those persons. I am not comfortable with this. I hear the Attorney General's argument, but if the public procurement Act was fully proclaimed and operational, I would have felt a little more comfortable. In the public procurement Act, for the sale and purchase of state lands, it is adequately covered there but when would it be operationalized? We have been continuously dragging the implementation and the full proclamation of this Act. The ongoing situation with the COVID-19 crisis means that there is going to be another drag on the procurement legislation. So my question is: right now, what parallel system would put in place to address the sale or the open transactions that take place with state lands? Open transactions of state lands take place right now through the Commissioner of State Lands and from what I understand, the Commissioner of State Lands performs with minimal resources, and it makes public land management quite inefficient and a great cause for concern.

I move on to the handling of money by sales associates. Clause 75 indicates that the sales associates cannot handle the clients' money without a licence, which is understood to some extent because the broker is the one who holds a client's account and holds the moneys received from sales. However, sales associates tend to facilitate transactions quite frequently and to me, that is considered handling money. Collecting payment from, let us say, a tenant carrying it to the landlord, to me, is considered handling money. So without attributing a proper definition for what handling money is, it is a little bit unclear and I think we need to be a little more explicit when we talk about handling money.

The maintenance of proper records. Mr. Vice-President, looking at clauses 45 and 46, it is very commendable that we are moving toward encouraging the maintenance of records for a period of around six years and I looked at the types of records in the law that are being required. However, some of the documents to be

maintained by the sales associates seem to be duplicative and some of it is quite confidential, confidential documents for which brokers and brokerage firms are liable for, and liable for by the FIU as they are mandated to secure certain documents in a certain way. So is it that we are going to expect the sales associate to adopt similar protective measures when it comes to the securing of confidential information?

The experience of members that constitute the board, this was also already mentioned during the debate but I would like to say one thing on this. The learning curve—from what I understand during my conversations with experts in the field—the learning curve for the real estate profession seems to be a very steep learning curve. During the first two to three years, where they become qualified, they begin to grasp how the business really works and two years after that, they become fully equipped to handle the field, to become familiar with the different types of real estate transactions. And I honestly believe serving members of the board should have a broad range of experience over various cross sections of types of real estate transactions, and I am not sure if that would be included by a person who has five years' experience. Maybe we should consider extending the requirement to around maybe five to seven years, or maybe seven to 10 years.

With respect to the transition from the existing association to the new association—now, I understand there is the Association of Real Estate Agents and there is also TTREA. The Association of Real Estate Agents, from what I understand, was formed under a private Act of Parliament. Now, it is acceptable to have a transition period of 12 months to 18 months under the Act because it is subjected to an extension and it gives time for the real estate practitioners to put things in place so that they could obtain the necessary qualifications. Some certification programmes, from looking at the ROYTEC website, to become

certified as a sales associate, you need to complete a 12-week programme. To become a real estate broker, there is a two-year programme and we have to adapt—we may have to consider adapting these programmes to facilitate the transition or incorporate some combination of experience and education. I would not say practising only as a requirement. History of practising in the field would automatically exempt persons because they could be practising in the field for a very long while, and been practising incorrectly or fraudulently. We may also have to extend the transition period.

Now, the issue with the commencement of the first board, this issue was well ventilated. I think that maybe consideration should be given to both practitioners at the Association of Real Estate Agents and also, the TTREA when forming the first committee, and I think that is the intention of the Attorney General. What is missing from this Bill though, Mr. Vice-President, to me, it does not provide sufficient regulations required for land developers. They are not required to maintain records, they are not subjected to any audits, they do not have any licence—

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

**Sen. A. Deonarine:** Thank you. They do not have any licence and they are handling clients' money, and to a larger extent than real estate brokers in some instances. And also, land developers tend to place a high and increasing risk or threat to the environment. I expected to see a high priority being placed on urban planning and environmental sustainability in this Bill but I suspect that with full implementation of the Planning and Facilitation of Development Act, 2014, it would probably be enforced in that legislation.

So what are we going to see for the future of tracking transparency in the real estate industry? The Property Business Registration System to automate land

registry in Trinidad and Tobago, this is a project that has been ongoing with the Inter-American Development Bank, going into seven years. January 2021 would be seven years since this project has been operating and the purpose of the PBRs system, which actually cost US \$35million, is to really link land title registries and the departments of births and deaths. So that would allow us to track fraudulent behaviour in the industry. We also need to strengthen the police service division, add additional fraud investigators and document examiners.

Mr. Vice-President, the last thing I would like to say is that in order to adequately or sufficiently tackle this issue of transparency in the real estate industry, we also need to take into consideration the full implementation of the land titles package: the Registration of Titles to Land Act, the Land Adjudication Act and the Land Tribunal Act. So, Mr. Vice-President, with those few words, I would thank you. [*Desk thumping*]

**Mr. Vice-President:** Sen. Ameen.

**Sen. Khadijah Ameen:** Thank you very much, Mr. Vice-President. I want to especially thank the parliamentary staff who ensure that the area we speak is sanitized every time a speaker comes to this podium. Mr. Vice-President, I intend to be very brief in my contribution to this Real Estate Agents Bill, 2020. Mr. Vice-President, the Opposition agrees that the real estate industry needs to be regulated. For quite some time, there are those who have called on the authorities to do so and the fact that it is happening, is a positive sign. The real estate industry is not necessarily real estate agents. It is a space where a number of illegal activities can take place or rather, the proceeds of illegal activities can be covered up, money laundering, and so on. Mr. Vice-President, that I do not feel is adequately covered in this Bill but, of course, there is space, and I know that Members of the Government did indicate that there are other pieces of legislation

we could expect. So, Mr. Vice-President, we await those pieces of legislation coming.

I wanted to raise a few matters that I hope could be addressed, either on the floor or in the committee stage. Within this Bill, in dealing with the establishment and composition of the Real Estate Agents Licensing Committee, there is a clause that provides the grounds upon which a person would be disqualified from being appointed as a member of the committee, so it includes:

- “31 (a) is an undischarged bankrupt;  
(b) is of unsound mind; or  
(c) was convicted for an offence which carries a term of imprisonment of at least twelve months.”

So the person does not have to be convicted or sentenced to 12 months in prison but the offence must carry at least 12 months' imprisonment as part of it. The magistrate of course may have had discretion. This offence does not have to be an offence under the financial regulations Act. It does not have to be an offence concerning the Integrity Commission or fraud, or any other type of activities concerning money; it is any offence.

Mr. Vice-President, I just want to draw to the attention of the Senate that having regard to the fact that any crime, regardless of the nature, can fall under this measure. A person in their 50s who committed a crime in their youth could never possibly in their life practise as a real estate agent. We talk so much about rehabilitation and getting people back into society—I am sure, brother Wayne Chance, if you were alive today would have something to say about this. There are people who would have served sentences who would have been completely rehabilitated, reintegrated into society and leading a clean life who would, by this clause, be totally exempted—well, not exempted but disqualified from ever being a

part of this committee. So, Mr. Vice-President, I want to suggest that we have a time frame within which a person can be allowed, after this offence is committed, or some other measure that would allow a person who would have served their time, completely reformed back in the society, especially where it is a mature person and decades may pass, and this was a crime committed in the ignorance of youth. So that is for the consideration of the committee.

Mr. Vice-President, I also want to— I think one of my colleagues before raised it so I will just endorse, the removal of a member, the grounds on which a member can be removed from the committee, that requirement for misbehaviour in office or bringing the office into disrepute. So the other measures are if the person:

“35 (a)—if— “the member—

“(i) is declared bankrupt;

(ii)—is— “...of unsound mind;

(iii) is... unable to perform his duties...

(iv) is convicted of an offence...

(v) misbehaves in office or brings his office into disrepute...”

—and the other one is:

(b) for any other reasonable cause.”

Those two I have a problem with. At whose discretion is this person going to bring his office into disrepute? We have people in the highest offices in this country who are accused of things and when the truth comes out, you realize it is an absolute fabrication. If a person is accused in the public domain, if via social media, if via traditional media or some kind of propaganda to attack a person's character, an accusation is made, will that be considered? And who determines if a person brings his office into disrepute?



So I think we have to be a little more specific. If a person commits a crime or was alleged to commit a crime, or commit some kind of misappropriation or fraud, anything within his industry and within the transactions as a real estate agent, or any other type of business and it is in fact a crime, then the person will be charged. We have to put something a little more concrete there. I do not think it is for someone to simply say, “Well, you brought the office into disrepute because of something that is not measureable.” So those two I have a problem with; brings the office into disrepute, we have to be a little more specific.

Quite frankly, if a person commits a wrong and they are charged, it will fall under the previous measure, which is convicted of an offence which carries a term of imprisonment for at least 12 months, or you can say, if a person is convicted of an offence that involves financial irregularity or financial—some kind of criminal conduct where money is concerned or under the Integrity in Public Life Act or a fraud under the laws concerning fraud in Trinidad and Tobago. So I feel we could use that instead of saying, just vaguely saying, “brings his office into disrepute”. And of course my colleague, Sean Sobers, Sen. Sobers spoke of the point of a person being disqualified for any other reasonable cause. Who determines what is reasonable? That is too vague and I do agree with my colleague in that regard.

**2.10 p.m.**

Mr. Vice-President, there is also another small point concerning the procedure for persons desirous of objecting to an applicant’s registration. So that in this Bill, the Registrar General, upon receipt of an application, must publish the notice of the application in the *Gazette*—I do not know who reads that anymore—and at least two daily newspapers in Trinidad and Tobago. The number of people who actually read newspapers is dwindling but it asks that the application be published in the *Gazette* and in at least two daily newspapers in Trinidad and

Tobago, specifying a date by which a person may object to the registration of an applicant.

Mr. Vice-President, given that we are in a digital age—never mind that we have had a little spoke in the wheel because children are not getting laptops in school anymore—but the fact is that fewer and fewer people are going to read the newspaper. Nobody is going to buy the newspaper to look out to see these type of things. If a person wants to find something in the classifieds, they may buy a newspaper for that, but generally people go online. For this purpose, I think, Mr. Vice-President, we have reached the stage where we could put— it should be published on a website. So that could be added to *Gazette* and the daily newspapers. The Ministry has a website. The Registrar General is part of a Ministry and I am sure they would have their own page, and based on the present administrative structure, we can place—should place something here about publishing it on a website as well. I think that is mandatory.

Mr. Vice-President, the other point I want to make is that many of the speakers before spoke about the Association of Real Estate Agents of— well, they are an umbrella body. There is an Act of Parliament that gives them life but there is another agency called the Trinidad and Tobago Real Estate Association, which is a different body, and they have been operating for many years. They are of the view that the Association of Real Estate Agents do not represent the interest of all the agents, that they only represent a small group. They are very active as well. No mention was made of them but based on the existing legislation, based on the fact that AREA is enacted in an Act of Parliament, they may have to get in line. So whoever is on the Government Bench might be able to share with us if they did have any conversations with them.

Now, one of the things they are recommending is when it comes to the

registration of real estate agents, there is a deadline. So that the persons who have been practising for some time have a stipulated amount of time by which to register. Persons who have not practised before cannot begin to practise and then register. They must register first.

What the TTREA is suggesting is that existing agents be given a longer period of time in which to register. They are also asking that where clause 9 deals with the qualification for registration as a real estate agent and indicates that an individual must satisfy the Registrar General that he is at least 18 years of age and is in possession of the prescribed qualifications—we, in Trinidad and Tobago, have people who have practised and “know de ting” better than people who studied and are certified. I think we have to give consideration for agents who have been practising for a number of years, who may not have what is considered the prescribed qualifications. Are we then eliminating those persons with this new system and this new requirement?

At one time, we had a programme in Trinidad and Tobago where people who were involved in skills, who were masons and plumbers and so on, were allowed to participate in a programme that would give them certification, that put them on par with somebody who studied and went to get their certification. So it means that the practical knowledge is taken into consideration. But those people who have been practising as real estate agents for many years would be allowed to be considered, even if they do not have the prescribed qualification. One suggestion is people practising over five years. Of course, a person could be practising for five years but practising irregularly. So we must come up with something that is relevant to the industry and that would be reflective of those older persons.

Mr. Vice-President, I also want to therefore ask about—

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

**Sen. K. Ameen:** Thank you—about persons who practise, who are real estate agents part-time. I think somebody before me mentioned that there are people who are housewives— well, it is called “stay at home moms” now, but they do this thing on the side. This is not their full-time occupation. They may sell a property once every few months. It is not something they focus on. They will be required to pay the same membership fee. They would be required to go and renew their licence every three years. Three years might pass and they have not sold a property. How do we treat with that? Should we have a separate category?

There are also people who might do a one-off. I may have a friend with a property and I might know someone who is looking for a property, and between them, they decide to pay me a commission. How do we treat with that? That person is not required to be registered as a real estate agent. Is it that a person will now be not permitted to facilitate such a transaction? Because you would have to explain your funds to the bank, so I think we have to make a provision for part-time real estate agents, people who transact below a certain sum per year, or conduct a certain number, less than a certain number of transactions per year. I think we have to make that distinction because there are people who are in this professionally and there are people who do it as a one-off. Of course, when things are very slow, how do we gauge? I mean, a long time might pass before an agent actually sells a property. So I think we have to consider that.

The other thing I wanted to mention is foreign buyers, people of other nationalities who purchase lands in Trinidad and Tobago and agents who facilitate them. I thought it would be useful for us to have a clause here where we should notify in some special way, where the real estate agents are required to notify when a foreign national is purchasing lands. I say this because we could have—when

you add it up, quite a bit of land in Trinidad and Tobago being owned by foreign nationals. It happens in Tobago. I know at one time people were talking about how we put a stop to that. Maybe we have to have a little something extra for real estate agents to be clear or to indicate where the person who is purchasing the property is a foreign national.

Two more points. One has to do with the clause that allows a broker to surrender his licence to the committee. So where the committee receives a surrendered licence, the committee can cancel the licence. It has to give notice of the cancellation to the Registrar General and the supervisory authority. Of course, where the person dies immediately, it is cancelled. But this gives the impression that a broker could just throw in the towel at any time. He could surrender his licence at any time. But there are provisions which outline the obligations a broker has to a client, so you cannot, halfway through, throw in the towel. I think we have to make an amendment to give consideration and effect to the duties that are outlined so that it is not just immediate. There is an overriding duty that is owed to the client under the Act. So if we could have a better look at that, it would be good.

The other thing, Mr. Vice-President, the composition of the Licensing Committee. I will not read out what the qualifications of all the members are but there are provisions for three attorneys-at-law. Apart from five years' experience, seven years' experience and so on, the number of years, 10, seven and five, there are no other requirements. So a person who is a criminal lawyer could be appointed. A person who is practising land law could be appointed. I think we have to be specific. There are areas of law that are very specific, that people are qualified in and whether the person is—we have to say whether they are practising in that area, such as real estate, a background in conveyancing and so on. Are we

going to put a copyright attorney here, a criminal attorney? I think we have to put something in there with regard to their area of expertise for these attorneys-at-law.

Mr. Vice-President, with these few words, I want to thank you for this opportunity to contribute.

**Sen. Damian Lyder:** [*Desk thumping*] Thank you, Mr. Vice-President. Again, I would like to say it is indeed an honour to participate in this Bill, a Bill which the Opposition sees as a very important Bill. The Opposition sees this Bill important to stakeholders of the industry. They see it important to the Government and we see it important to every citizen of Trinidad and Tobago. Mr. Vice-President, we support this Bill, but we support a Bill that has fairness and transparency attached to it.

But for me, personally, this is an important Bill. Being the son of a retired real estate agent of over 25 years, I would have heard a number of horror stories over that time. If you permit me, Mr. Vice-President, I will cite a few stories. There have been situations because of no legislation. You have stories of two real estate agents working together to sell a property, but one being unscrupulous. And when the deal is closed, the commission is not split, and there is no redress. Either the person who is selling or had listed it, has not given the commission to the agent who has partnered and sold it, or the person who was partnered to sell it, has gone around the back and circumvented the listing agent and cut a deal at the side. There is no recourse.

There have been stories of persons creating fake identification, as we heard the Attorney General speak about it earlier, that would match a deed, selling it at a fire sale. Cash, unrecorded cash, and then what happens? Three years later the developer is coming to build on the land and in comes the rightful owners with the real identification.

In fact, only two years ago—this story is the one that shocked me—a colleague of mine who owns a quarry, there was fraud happening down at the land register. In comes an unknown party with a deed in their name, storms the quarry with armed personnel and takes over the quarry, puts out the rightful owner. It took my colleague a couple of months to rectify it, with police, with the courts. It was a nightmare. But my parent, having complained, and many other real estate agents, complaining about this, many of them had no real guide other than this association called AREA. AREA, this unofficial association was the one set to create rules and policies. This is an association that has existed for more than 30 years. They have 30 years' experience in this business. They have 30 years' experience in creating policy and they have 30 years' experience in these horror stories that I talk about today.

Mr. Vice-President, this is why I have come now to reiterate the point that my colleague, Sen. Mark has made about the importance of AREA in this Bill and the concern of the Opposition that we are seeing where AREA is placed. We are seeing a battery of lawyers, not persons experienced in the real estate business.

I want to draw reference, again, to what my colleague said about Bahamas. They understood the bureaucracy of these land register offices, the overwhelming burden that these government agencies have. We are no different in Trinidad and Tobago. There is bureaucracy. We are overwhelmed. You speak to anyone who has tried to purchase real estate or sell real estate in this country, and they will tell you the bureaucracy. They will tell you how long it takes to get anything done. And here we are coming to put a burden, again, on a government agency. When Bahamas, seeing this, created what would be their version of AREA, they empowered that agency and gave them the legislative powers to run this part of the industry, to make the policies and to regulate the policies in this industry.

Now, the hon. Attorney General was very right when he said that land is one of the most valuable assets that we have in Trinidad and Tobago. He is absolutely correct about that. But I ask you, Mr. Vice-President, is land any less of a value for Bahamas? In fact, I want to say to you that land might be one of the very few things that Bahamas has in value, their land, their beaches. They do not have offshore oil and gas. Correct me if I am wrong. They do not have a large manufacturing sector. Their business is tourism, land, that is what they have. I do not think they have much agriculture. So why would Bahamas get this wrong?

That is why we are asking the hon. Attorney General to consider the wealth of knowledge that an association like AREA has in shaping policies, procedures and in taking away that burden from the land register's office. You see, Mr. Vice-President, this leads me on to my very next point.

You see, I almost feel as though I have— what they used to call it? — déjà vu, because it was only yesterday we were talking about the wide powers of one single person, or one single entity. I want to draw your reference to 12(3). In 12(3), this is where the Registrar General is providing licences for real estate agents. Again, we see all these powers coming to this one person, he or she. Again, I will repeat what I said yesterday, this is almost draconian in nature.

What happens when a young aspiring real estate agent, someone who wants to get into the industry, what happens when they register and they apply? What happens if they have a personal grievance with the Registrar General? What happens if there is some sort of political interference with that individual? What happens— I think another colleague said—the gentleman or the lady wakes up on the wrong side of the bed and decides you do not qualify, what is your form of redress? Well, if you permit me to read in clause 12(3):

“An applicant who is aggrieved by a decision of the Registrar General under



subsection (2) may appeal to a Judge of the High Court.”

Mr. Vice-President, that is why I said I have déjà vu; it was the same onerous process.

I ask the question to the hon. Attorney General: Why such a leap? Why such a costly venture? What young potential real estate agent has the financial capacity to take this to the High Court? Which one of them has the time to take this to the High Court before they decide, you know what, I do not want to be part of this industry anymore? So we are restricting people. So my question is: Should there not be an internal independent appeal process or a tribunal set up as a go-between in between the decision of the Registrar General and the High Court? I mean, Mr. Vice-President, I am sure you could agree with me, the High Court is also overburdened. There is a backlog. How long would it take to get redress? Should there not be this independent tribunal that one can go to for redress? [*Desk thumping*] That is what I ask. It is the same thing as yesterday.

So I humbly suggest to the hon. Attorney General that when we get to the committee stage, he considers this part in particular because we can be restrictive to people. This is draconian.

Mr. Vice-President, another of my colleagues touched on this point but I too would like to touch on it. I take you to clause 16(2). If I may read:

“The Registrar General shall, upon payment of the prescribed fee, allow any person to inspect the public registers during normal business hours.”

Now, in the age of technology, when speed is the order of the day, are you saying to me that if I want to find out if a real estate agent is properly registered before I buy a piece of land or sell a piece of land, I must go down to this office, pay a fee—and I wonder if I should say “fee” or should I say a “tax”, because “we getting accustomed now to everything being taxed. Is a tax for dis, is a tax for

dat”—is this a tax? Well, why do we not just state it is a tax and done?

But, Mr. Vice-President, I said that we are in the age of technology. We should be able to go online, be able to access this list electronically and make quick decisions. What if there is a hot piece of land that I want to buy? What if? But I have to go down by the Registrar's office and pay a fee and find out. “Well de length of time it takes me to do that, somebody else come and huff de land and dey gone.” So that puts me at a disadvantage for wanting to do the right thing. In fact, I could be corrected here but I think in the Law Association, one can go to the Law Association to find out if a lawyer is properly registered, et cetera. Cuts past the bureaucracy. Why are we going back? We have an opportunity to go forward, why are we going back?

Now, this process may be easy for somebody like myself living in Port of Spain. But what about the small man in Cedros, in Toco, in Mayaro? What about that person? He has to traverse all the way to town to find out if this real estate agent is properly registered? It is inefficient. It is obsolete and I would like to make a recommendation to the hon. Attorney General that he considers putting this as a matter that is accessible online electronically.

You see, it all ties right back into the same thing, you know. It all ties back into sending this to the land registrar's office. And should we have done exactly what was done in Bahamas and empowered AREA to be the checks and balances, the policymakers, the person you go to for redress, the person you go to for information, to make information a lot easier and accessible. If we did that, then we would be a more progressive society.

Mr. Vice-President, I will not worry to go into too many of the other areas because my colleagues have done what I would say “just desserts” in addressing many of the issues that we have here today.

The only other question I have and I seek a bit of clarification is on—

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

**Sen. D. Lyder:** Thank you, Mr. Vice-President.

The hon. Attorney General did mention, and rightfully so in section 5 that that section did not include bailiffs or auctioneers who sell or auction pursuant to a court order. Once we get to committee stage, I hope for a little bit of clarification on that, why they were not included there. I am sure he has a reason behind that. Maybe it is something I missed but I am just raising it so that in committee stage we can get some clarification on that.

Mr. Vice-President, as I close I say to you, it is a good Bill. It is a long-awaited Bill but it is a Bill that needs more fairness and transparency attached to it. When I listened to my colleagues earlier on many of the other points, some I did not consider myself, I opened my eyes, and I opened my eyes wide. I ask the question: Are we a progressive nation or do we want to do it the “same ole, same ole”. We ask the hon. Attorney General to consider these points. We look forward to it.

Mr. Vice-President, I look forward to seeing this Bill passed. I look forward to supporting it but I look forward to the fairness and the transparency being injected into this Bill. With those few words, I thank you, Mr. Vice-President.

**2.40 p.m.**

**Mr. Vice-President:** Acting Leader of Government Business.

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you very much, Mr. Vice-President. Thank you for the opportunity to speak on this Bill, the Real Estate Agents Bill. A tremendous amount of work has gone into drafting this Bill, Mr. Vice-President, and the AG would attest to that. And two of my colleagues, Sen. Mark and Sen. Lyder have

attached themselves to The Bahamas model. And I want to respond to that simply by saying, if you go to the US Embassy site, for Bahamas you would will see a section labeled “Real Estate Matters” and there is only one thing in that section, it is caution and reads like this:

“A number of U.S. citizens who have purchased or sold real estate in The Bahamas have reported tremendous difficulties in the process, some even losing their entire life savings. For example, U.S. citizens have reported that after ‘purchasing’ property in The Bahamas, they discovered that the seller did not have clear title and/or indisputable ownership of the property. Some of the incidents reported include high-end real estate development projects on family islands where the development project was not completed and individuals could not get their money returned.”

I will stop right there. I do not want to inflict any further damage on the real estate industry in The Bahamas. But, Mr. Vice-President, The Bahamas made several attempts to bring their real estate industry together under some sense of organization. And prior to 1995, when the legislation dealing with buyers and sellers and brokers was enacted, there were several failed attempts in The Bahamas, and even after 25 years of having the legislation we are now trying to put in place, the US Embassy warns that people have lost their money in Bahamas. And if you Google the words “real estate fraud in Bahamas”, there are a lot of things to read concerning agents and attorneys.

So, it is not that The Bahamas and the complete regulation of the industry by the agents would be a magic wand for the control. It is what deals with the issues that we have to deal with in Trinidad and Tobago. And without giving it much thought, I made a quick list of 10 words that are typical in land transactions in this country. Top of the list:

- Fraud;
- Incomplete transactions;
- Conversion of money, which is an offence;
- Misapplication of money, some of my colleagues have gotten into trouble for that;
- Exorbitant fees and charges;
- Poor conveyancing;
- Misrepresentation;
- Mistakes;
- Lack of approvals; and
- Lack of capacity to conduct transactions.

That list could easily be five hundred given another ten minutes. You see, this Bill would not work on its own. I remember in 1981, I was still in primary school but I was following the Parliament, and I remembered Attorney General Russell Martineau now Senior Counsel, putting in place a series of Bills relating to land, and regulating land in the country. He also put in place legislation to deal with succession planning, and wills, and estates, and so on, and those have remained on the books since then. And what we have tried to do, we have tried to deal with land by four pieces of legislation, I call them the “suite of land law”.

And I remember the Senate—it must be history created— I remember the Senate sitting in one session and dealing with three of those Bills in one sitting. And that was the suite of four where we dealt with the issue of limitations of action in relation to land matters, the issue of squatting, and the timeframe in which you can acquire or extinguish the title of the State in relation to state land, and some other matters including the amendments to the Land Tribunal Act and other

matters relating to law. We have the registration of deeds, registration to be dealt with. We dealt with the facilitation of development amendment, we still have on our Order Paper the urban planning profession to deal with, we dealt with valuation of land, and we dealt with property tax. All of those things work together. And these things work to attack one thing in the main. And that is this issue of fraud in relation to land matters and on any given day in this role I have, I could tell you about fraud, and even if I did not have this role in my practice as a solicitor, I could tell you about fraud.

But, Mr. Vice-President, the hon. Attorney General when he speaks in the winding up, I am sure he will talk about clause 6 and he should name that clause after me, hon. AG, the “developer clause”. Because, Mr. Vice-President, it is one thing that had troubled me as a solicitor in this country, and as a citizen of this country, and I raised it at a joint select committee once when we had Town and Country and EMA and those agencies before us.

Mr. Vice-President, if you Google—not Google—if you go on Facebook and you search the words “land for sale”, you would get things like this and I read it into the record:

“Lots for sale 50 60 70 and 100k roadside tabaquite”— a phone number and it says— “no tc”.

No Town and Country approval. That is the most aggravating thing I could see on any advertisement in this country, “no Town and Country”. Next one:

“1 lot remaining

\$215k

Siewdass rd...Freeport...

No approvals”

That hurts this country in several ways. Apart from the fact that it creates

chaos in our system of land management, it creates chaos for the development process because when you apply for Town and Country approval, you are applying to be part of a development of a community in an orderly fashion. And town planners like we have in Town and Country, and urban planners, the profession we are trying to create, with the Bill that is on our Order Paper, they are meant to examine things like: the quality of the road and the availability of road network; the T&TEC infrastructure, the WASA infrastructure; the number of persons the health facility in the community—the number of persons it can accommodate; the school places, primary and secondary school places; access in and access out. And all those things are considered, something like garbage disposal. TTPost, there are so many persons in this country.

I was earlier this year in Rio Claro for the launch of the postal code project representing my former colleague, Robert Le Hunte, and I made the point about having dealt with those people who have properties that could be identified. What about all those persons who have built on the beach, and up the hill, and all over the place? How are we going to bring them on to the TTPost grid and give them a code and give them an address, and how could mail be deliverable to them? So that the absence— a simple thing as no Town and Country approval must be something that is an offence that is punishable with a serious fine.

So it is those ads that drew me to the work on this Real Estate Agents Bill. Because at a minimum—and the hon. Attorney General and I discussed that in the Legislative Committee—at a minimum this Bill is not intended to deal with real estate developments or the sale of particular types of property and so on. It is meant to regulate the profession, and the people who sell and the brokers and so on. But we felt at a minimum, we should use this Bill to cause anybody who is doing any type of development with land to create a record. Because I would

ultimately, as a citizen of this country, I would ultimately like to see that everywhere a parcel of land is being cleared, or a building is being constructed, or work is being done in relation to improvement or expansion, that a sign is erected containing the information relating to the approval of that by the municipal body, or the planning authority, that we know the name of the contractor and the address and so on of the contractor. So if something happens to somebody in the area, we know who to go to, and all these particulars.

You see, I always say we talk about Sweden and Norway but we do not want to live like Sweden and Norway. We talk about North America but we do not want to apply the same types of conduct that other countries do. So this, “no Town and Country approval” is an aggravating matter. And when the Bill was laid in the House, the other place, the Attorney General still was not—to my understanding—not satisfied with clause 6 even as it was then and an amendment was made in the other place. And what it does, it means that it does not matter if you are doing one lot, five, 20, or whatever, the definition of “simple development” that we inserted in the amendment to the Planning and Facilitation of Development Act deals with a simple development being less than 20 lots.

But this Bill, in dealing with the “developer” and Sen. Mark made a lot of it, simply deals with any—a developer is somebody who cause the subdivision of a large parcel into smaller lots, or erects building on land or causes infrastructure. And that triggers a registration and a register, created in the office of the Registrar General, that simply requires the person to set out some information not as detailed as the real estate agent or the broker, but information that allows us to be able to at least identify who is doing the development.

And that my understanding of what the AG proposes to do would lead to, to answer a point raised by Sen. Deonarine, would lead to separate legislation



governing the work of developers in this country. I think that is the next piece that the AG wants to work with and also, in dealing with that piece of legislation to the deal with the issue of marketing of real estate in this country. Because marketing, you would see as I get to the particulars that a real estate agent must provide, that would get to the words that I raised. “Mistake”, very often I have to deal with transactions where the property that the person thinks they are buying and the person is actually buying is in two different parts of the country. You have mistakes—I am talking about mistakes and not fraud— mistakes with the acreage. I spoke to somebody this morning who actually got an acre less than they bargained for in the first place. And the more the documentation, an agent is required to put together at the start of a transaction, is the less problem we will have at the conveyancing stage and most importantly, the less headache a buyer or seller would have after the transaction. So that is in relation to clause 6, Mr. Vice-President.

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

**Sen. The Hon. C. Rambharat:** Thank you very much. The other area I wanted to go to, Mr. Vice-President, is clause 48, where we detailed the particulars. So that is Part VIII “Duties and Obligations of the Real Estate Agent”, and is very important. This is the sort of information that a solicitor will collect and record in a file. The hon. Attorney General is a very young man but I remember in my days, before I went to law school, being sent to Basil Jack on the Harris Promenade and Basil Jack had these beige files going right up to the roof. And then I was sent to Kelshall and I saw, likewise, Kelshall had all these files because solicitors are required to keep all these documents because clients come 20/30 years after.

And very importantly, the real estate agent is supposed to keep— have copies of the:

- “(i) survey plans;
- (ii) valuation reports;
- (iii) title information...”

- “(b)...description of the...property...
- (c) the names and proof of identity of the parties...
- (d) the...commission...and
- (e)...copy of the relevant...Deed.”

This is the sort of thing that solicitors currently must maintain but an agent should have all of these things to pass the correct information, but also have a record which demonstrates that what these parties are contracting for actually exist, and they are reliable and verifiable. And this is important to me, 48.

Mr. Vice-President, I just want to say I do not agree, I dismiss outright this talk about “part-time real estate agent”. A real estate agent could be part-time and do a transaction for 15 minutes for the year and earn a commission that is more than an agent who is working year round. So it is not a matter of how much time you spend on the job, the requirements of the law have to do with the fact that you are engaged in a part-time—in a transaction relating to land.

And I want to say in response to Sen. Deonarine, that you know, a lot could be said, every time I hear about a public office, I heard about lack of resources. So, I heard about the Commissioner of State Lands and I will tell you this, Commissioner of State Lands has law enforcement officers, contract officers, patrolmen, state land inspectors, clerical staff, administrative staff, GIS Unit, IT people, agricultural assistance. Commissioner of State Lands, as I said in relation to the Chief Vet yesterday, has an array of resources that a Minister does not have. A Minister has a complement of two or three at the office. Some of these senior bureaucrats have hundreds of people. And all you can hear, in relation to the

conduct of the business of the people of this country, is that we do not have enough resources. I do not buy that. And as I always say to the officers, “Do one thing with the resources that you have and that would impress me.” Mr. Vice-President, I thank you very much. [*Desk thumping*]

**Mr. Vice-President:** Sen. Obika.

**Sen. Taharqa Obika:** Thank you, Mr. Vice-President. As I join this debate, it is important for us to note that land is supremely important to many families. Land is an aspiration and the acquisition of land and property are the things which families measure their contributions to their generations born and yet unborn. And of course, land, the world over, has been and will continue to be the source of contention.

This Bill seeks to impose penalties for a range of offences and stresses the importance of registering and licensing. There is a concern and a valid concern that it may seek to alienate agents at the lower economic levels, those that do not have the significant throughput of sales and business. There is a criticism that this Bill has, by practitioners in the field of real estate sales and marketing, is that it negates the time-tested training and industrial practice of apprenticeship, and learning at the feet of a master in the industry.

When you turn to the relevant clause of the Bill, it speaks only and I will get to that when I go through the contentious clauses, it speaks only to institutions that are accredited by the Accreditation Council of Trinidad and Tobago, and other means of accreditation. Some of the sanctions in this Bill are very excessive and may want—they may do with some revisiting.

Now, there is another scathing criticism of this legislation in that it only seeks to oppress those that are attempting to follow the law whilst quarantining the behaviour of the general public. So it is something that you may want to look at.

Each time we come to Parliament we see excessive, we see increases, we see incremental and sometimes galloping increases in fines and sentencing prescribed in law, and we may want to revisit that to determine what type of society we may wish to build for our people.

There is a very common criticism of this Bill and it has to do with the focus on attorneys. Attorneys as the panacea at the level of the Licensing Authority and then, of course, without much regard to their knowledge in real estate and persons from other fields.

I come from a community in south Trinidad and there are two communities that I am closely connected to, one is Point Fortin the other is Pointe-a-Pierre. And in Point Fortin, in particular—people will speak of Tobago a lot—but in Point Fortin, in particular, we suffer the legacy of colonialism. Because from this legacy of colonialism, when oil was found, the peoples were debarred the opportunity to own any of the lands around the oil. So what you have is a proliferation of squatting communities and that squatting should be in large inverted commas because if I carry you to some of the places in Point Fortin that are deemed “squatting communities” from Strikers Village, New Village, parts of Warden Road, Cap-de-Ville, Parrylands, Gonzales, Cochrane, and you see the established communities that are there, the households that are there, the structures and systems of economic generation that persist, you would struggle to believe that till this day that colonial disinheritance of preventing the democratization of land owning in Point Fortin and around the fields of south Trinidad in the oil belt, persist till this day.

This Bill, however, does not seek to remedy that situation unfortunately, because it is a narrow focus. But I am saying that a real estate agent, operating in an environment just as we mention, time without number, the peculiarities in

Tobago, we need to look at communities in Trinidad and a very important test case would be whether the legacy of the Petrotrin lands that were accumulated over different decades from the time oil was found till now, and the inability of persons to buy and own land in Point Fortin. The price of a plot of land being half a million dollars for a modest plot in a community with little or no economic activity. So, that is an issue that needs to be addressed there.

The other concern that I have of this Bill is the inability to address data dissemination. Now, residential and commercial real estate price indices, which start at the level of the real estate agent and the transaction, whether the transaction be cash or be a transaction that engages financial institutions, this data can feed directly into a platform that can promote development of reliable, timely, and consistent statistics on real estate prices in Trinidad and Tobago. If we use this Bill and include in it, the requirement of real estate agents to provide whether it be to the Registrar General's office or whether it be to the Licensing Authority, the transaction price of the properties that they sold, the times they were sold, the sizes of the properties, it would allow for anonymized data, accessible and available to policymakers which can help us in creating house price index, a rental price index. It will allow for better assessment of risk for bankers, and of course, it would allow for more robust policy in affordable housing development across Trinidad and Tobago. Because what you will have is, you will have a very clear picture using historical data, not of the current market values but of the transaction prices of properties across the length and breadth of Trinidad and Tobago, creating a proper mosaic that gives information. I am saying that this Bill is poorer because it does not include this requirement of the real estate agents to provide this information in the first place, that is, the transaction price of the properties.

And secondly, to also accumulate this information at the level of the

Government in an anonymized form that can be accessible to researchers and policymakers. I am sure the Central Statistical Office will be happy for this type of access and this type of advocacy that I am making today, and I hope that this request falls kindly or is received warmly by the ears of the Attorney General.

Now— and I will just end this plea with a simple story. When I was doing my MBA in Finance, my intent was in the market that I was in to create such a similar register, because my professor at the time did his for Scotland, in one of the towns in Scotland, and I was trying to do one for Accra in Ghana which has a similar colonial inheritance to Trinidad and Tobago. And the information was whilst available, the transaction prices, it was not accessible to researchers. So this transaction price information may be available but it is not prepared in such a way that it can be accessible to persons in Trinidad and Tobago.

And I wish to even go a further step, many times we have the requirement at the level of the bank or the real estate agent to engage the services of a valuator for properties. I am saying that whenever properties are so valuated, this Bill should include the requirement for this valuation information to be processed in the form of a data bank, so that it can be added to the anonymized. So what you get is real-time value of property which can be compared against transaction prices, which is historical data.

Now, when we turn to the Bill, if we go to clause 11, speaking to the objection of registration. If we have a young or a new, because new entrants into an industry can happen at any stage and whilst we have reorientation of labour, someone can enter the real estate industry at the age of retirement ordinarily. It does not mean that they have to be 18 years of age to be a new entrant. And regardless of whether they are young or they are ripe in age, the requirement that they may have to go through, if anyone or any persons object to them being a real

estate agent, it should be done in a very timely manner. And I think the entire process should be capped in such a way that it may never be able to go beyond one month.

So therefore, one month from when, not when the objection is a made necessarily, but one month from when the application is made by the individual to become a real estate agent. No longer than one month must they be made to wait to understand whether or not (a), they are going to be rejected because of an objection placed against them, or whether they are going to be accepted as persons to be real estate agents.

Now—so that is my recommendation regarding that specific clause.

### **3.10 p.m.**

Now, regarding the Association I see clause 22(2)(a) says:

- “(i) one member who is a broker, five years’ experience in real estate business;
- (ii) ...five years’ experience in real estate business; and
- (iii) ...five years’ experience in finance”

Now, the number of persons employed in the financial services sector in Trinidad and Tobago, when you include credit unions, of which there are over 120, when you include commercial banks, when you include savings and loans companies, when you include money lending operations and so on, insurance companies, it is a large number of persons. It is in the tens of thousands. And I think we would want to, we would want to limit or put a caveat there that they should have some measurable experience in real estate finance, whether it be from the avenue of mortgage financing or insurance of properties and so on. So then it gives them an avenue to interact with valuations on a regular basis and an opportunity to interact with market prices of properties and also, the bevy of

illegalities that can occur in the insurance services, I mean, in the—my apologies—in the real estate sector, so that they would not be naive.

Now turning to clause 29, regarding fees to the Association. Just as the fees for a banker who is involved in mortgage financing has no issue regarding the fees for attorneys because these are scheduled fees. The fees are clearly stated, so therefore, lawyer A or law firm B cannot circumvent those fees, they cannot arbitrarily charge what they feel like charging. They have to charge as set down clearly in the law.

I am suggesting that a schedule be prepared that can be updated from time to time upon recommendation between the Licensing Committee, Registrar General's office, the Association of Real Estate Agents to be prepared to be—to be birthed by this legislation. I think that a schedule, and I crave the indulgence of the Attorney General in winding up, to see if such a schedule could be entertained, so that we can protect persons who wish to be real estate agents from arbitrariness in any fees that will be so derived by the Association.

Then, if we turn to—

**Madam President:** Sen. Obika, you have five minutes.

**Sen. T. Obika:** Wow, thank you. That is a very short—okay, so 20 minutes really runs out on you. Thank you, Madam President.

So let me turn to clause 40, licensing of brokers, it just says a person of good character. I know, we may take it for granted. Is this a Police Certificate of Character? Or is it, is there any other mechanism? And if not, why do we not state Police Certificate of Good Character until there is a different certificate that is the standard that we go by?

And the next part there on page 24, clause 40(5)(a)(iv). It speaks only to the Accreditation Council and again, I made the call for existing real estate agents,



who can, by virtue of, whether it be an affidavit, or by virtue of a testimony of existing real estate agents, or a financial institution who have used their services, why can we not make an exception for those existing real estate agents who could display a proper track record without having accreditation behind the name?

Because I will give an example, there are many persons in the banking sector who have 30 years plus of banking, but their qualifications came through internal processes and courses at the level of their financial institution. But of course, new entrants would be required to have a bachelor's degree and in many cases, a master's degree and other professional certifications. But the older hands and heads in the industry may have had different standards to matriculate via. So let us look at some exceptions for persons in the industry.

I saw there on clause—well on page 30, it does not make it simple. The sales associate who acts as a dual agent, I wonder if there was an offence associated with that, and exactly what would have been the penalties therein. When we turn to the Disciplinary Committee it mentions an attorney-at-law, 10 years, no mention of a legal background. So there is something to look at there. And I am suggesting that the Disciplinary Committee may want to include a banker because I believe a banker obviously, I being a banker, it may seem that I am, I am declaring my bias, but I still believe that a banker would bring a lot of value to a disciplinary committee because we act as the intermediaries in the transaction.

Now, in summary, the real estate agent, I need not add my voice to the protest of AREA or TTREA, or whichever associations because much of that representation was already made by speakers before me, so I want to return to my initial submission that the community in Point Fortin and other similar communities that have issues with land tenure, these things need to be addressed. Regarding the requirements of the transaction prices and the completed property

valuations to be submitted to a body that would provide anonymized, accumulated data, available to researchers, available to bankers, so that we have a property index that can inform policymaking for affordable housing and inform risk based assessment in mortgage financing at the level of banks, insurance companies, and will make for a more robust, property market, as is important for the management of our Gross Domestic Product and the development of our economy in Trinidad and Tobago. I thank you, Madam President.

### **STANDING ORDER 30(2) MOTION**

#### **(SENATE PRIVILEGES)**

**Madam President:** Before I call on the Attorney General, I am now prepared to rule on the question of privilege that was raised by Sen. Mark earlier in today's proceeding.

Sen. Mark alleged that the Minister of National Security deliberately misled the Senate and in support of this allegation cited the Minister's response to questions posed on May 13, 2020. Sen. Mark also referred to a media release issued by the United States Ambassador to Trinidad and Tobago on May 19, 2020.

Hon. Senators, I have carefully reviewed this matter. It is important to understand the chronology of events that led to this issue being raised by Sen. Mark.

The questions were posed to the hon. Minister on May the 13<sup>th</sup> and he responded to the questions on said date. The media release was published on May the 19<sup>th</sup>. Sen. Mark, in raising a matter on the adjournment on May the 19<sup>th</sup>, made extensive reference to the said media release.

The Minister of National Security, in responding to the matter raised by Sen. Mark, and in reference to the media release cited by Sen. Mark, used the opportunity to explain his earlier response given on May the 13<sup>th</sup>. The Minister also

unequivocally stated in clarifying his response that he had no intention to mislead the House.

It is well recognized that one of the key ingredients to be established when it is alleged that a Member is in contempt on the grounds of misleading the House, is that it must be established that the Member making the statement knew at the time the statement was made that it was incorrect, and that in making it, the Member intended to mislead the House.

Speaker Carr, of the Legislative Assembly of Ontario, explains the issue quite succinctly.

“The threshold for finding a prima facie case of contempt against a Member of the Legislature, on the basis of deliberately misleading the House, is therefore set quite high and is very uncommon. It must involve a proved finding of an overt attempt to intentionally mislead the Legislature. In the absence of an admission from the Member accused of the conduct, or of tangible confirmation of the conduct, independently proved, a Speaker must assume that no honourable Members would engage in such behavior.”

The Minister, having been provided with the opportunity by Sen. Mark to elucidate on his previous statements made on May the 13<sup>th</sup>, demonstrated via his response on the 19<sup>th</sup> of May, 2020, that there was no intention to mislead or deceive the House. There is also no tangible, independently proved confirmation that it was the Minister’s intention to deliberately mislead the House.

Therefore, I rule that there is no prima facie basis to support a question of privilege.

### **REAL ESTATES AGENTS BILL, 2020**

**Madam President:** Attorney General.

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President. Permit me first of all to express my gratitude to all hon. Senators for their contribution in this debate. I think that we have covered a significant amount of ground and certainly there were commendable suggestions coming from hon. Senators.

Permit me to also thank Sen. Rambharat for joining this debate alongside my other colleagues on the Government bench, but in particular him because he provided a very fulsome dimension to the issues of developer, the next steps that we are looking at and some of the cohesiveness of this law, as it interoperates with other laws, (a) that we have passed, and (b) those that are coming at us quite soon.

Permit me therefore, because the time is truncated, to adopt into my submission, many of the submissions given by my colleague, Sen. Rambharat, and yes, I acknowledge for the record that clause 6 ought to be labelled the Rambharat clause. That is the clause on developer.

Permit me, Madam President, to now give some response to submissions from my colleagues and I will start with Sen. Mark. Sen. Mark made the submission that developers ought to be treated with—Sen. Rambharat has already addressed some of that. Sen. Mark made some wild accusations about Government Ministers being involved in development, and I would like to say first of all that yes, many Members of the Parliament, including Opposition Members are developers.

There was an acknowledgement by a very distinguished Member of the Opposition, Member of Parliament for Tabaquite, Suruj Rambachan that he is in fact a developer, as I have declared my interest similarly on that point. That is not to say that the concept has been left out, put quite simply, as Sen. Rambharat put it, and permit me to put it in my version.

It was critically necessary for us to capture a developer. We do not propose in this law to regulate, by way of licensing, developers. That is another subset of law, that in fact, we have already started perfecting at the AG's office. When we get back into the next Parliament, as a Government, we will be able to continue that work with certainty. There is a certain amount of consultation that we need to have. So we will just allow for that process to continue.

### **3.25 p.m.**

What I can say, Madam President, is that the concept of developers as we captured it in this, firstly by way of the definition in clause 3:

“‘developer’ means a person who—

- (a) erects a building or structures upon land...
- (b) causes infrastructure to be built or installed upon land...; or
- (c) causes the subdivision of large parcels of land into smaller lots...”

—of land.

That is to capture everybody involved in any aspect, because what we are dealing with in clause 6 when we establish the developer, when we are dealing with a developer prior to erecting, causing infrastructure, or subdivision:

“shall apply on the prescribed form to be registered...”

This allows us to capture a vast number of people who are simply breaking the law, either they are not paying their fair share to the Government of Trinidad and Tobago, or they do not engage in Town and Country Planning, or city corporation planning, or municipal corporation planning, or WASA, or fire, et cetera, so it gives a positive mark for the first time in Trinidad and Tobago by way of compulsion of law that if you are going to be doing anything by way of development that you will be known in the public registry as doing that.

Can you understand how massively important that is? Because nobody has

access to Town and Country Planning to know who has been given Town and Country Planning permission. Nobody has access to the city corporation. Of course you have access under the Freedom and Information Act, but that requires you to go fishing and await a response. For the first time we will have a public register available to the people of Trinidad and Tobago so that you know at any one point in time who is developing in this country. That impacts flooding, that impacts management of waste, that impacts land ownership. Are you building on state land? Are you not? And therefore this simple clause 6 is a radical transformation of Trinidad and Tobago as we understand it.

Sen. Mark looked at New Zealand, Jamaica and Bahamas, he said they were not complex in arrangements. Yes. Because they have a different system of land registration and development. So, the hon. Senator is not comparing apples with apples, or in our case, mangoes with mangoes, or indeed Julie mango with Julie mango, because there is a complete disassociation and disconnection with those models of law. What we did take from those models of law was the co-regulatory approach. A government in association with the association coming up with co-regulation. Sen. Mark said that AREA ought to be included. AREA is the private entity.

I will ask Sen. Mark, well why not TTREA? They have 200-plus members. AREA has a membership. The point is, either one of them could have been brought in, but we would have a constitutional problem if we took a public law like this with a public purpose set out in the functions, and gave it to a private entity. You see, AREA as it has been incorporated as an Act of Parliament was done by way of a Private Member's Bill, and therefore you cannot give public functions in law to a Private Member's Bill. If you could you would have to ask for constitutional exception, you would have to go for a three-fifths majority. But, you

would have a serious problem in getting over the equality of treatment argument, because now we have an entity, albeit only recently born, of the TTREA, and therefore you would be discriminating in law for people who are in similar circumstances arguably, and therefore we cannot accept that particular recommendation.

Sen. Mark asked that the committee be broadened. He said that it was comprised of lawyers, and I would like to explain why. Because the Licensing Committee issues licences, and licences are akin to property rights, because a licence permits you to do something. To allow for that to pass constitutional muster, the people on the committee have to be protected by a service commission. The only service commission that is available in this regime will be the Judicial and Legal Service Commission. Number one, because of the independence of the Constitution; and number two, because it allows for lawyers to exercise the judicial or—sorry, the quasi-judicial functions of granting a licence or refusing a licence. It is the same thing for the Disciplinary Committee. We have heard the recommendations coming for the broadening of members of the pack of real estate agents of the industry to be included.

Consequently, in clauses 30 and 54, we propose to move amendments to broaden the inclusion of stakeholders in the industry from two to four persons in both circumstances. That would take us to nine persons on each committee. Obviously you have to go for an odd number, because if you went for an even number you run the risk of a deadlock in law, and therefore you want to escape that particular position. Sen. Mark asked, as with other Senators, about the three-year requirement to renew yourselves. Madam President, what time is full time?

**Madam President:** 3.51 and 31 seconds.

**Hon. F. Al-Rawi:** Much obliged. Sen. Mark and several Senators asked about

why have a three-year position? Sen. Seepersad said, for instance, it should be a one-time registration. We would like to explain why. The Companies Act has shown us that if you have a one-time registration, the vast majority of people do not update their records, because there is no need to, because there is no consequence. It puts the obligation on the registrar to look at annual filings, et cetera, but in this case there are no annual filings, so you would not have the ability to know the currency of information. Is it up-to-date? Do you have the best information? And therefore, just like a driver's permit which is cyclical in nature, or a passport, or the non-profit organization regime, we propose a three-year renewal process so that you are always with current information. That is, of course, the best class in standard, and the Financial Action Task Force, and many other jurisdictions have this way. We did not think it appropriate to go for annual renewals. That would be too burdensome.

Madam President, the allegation has come from several of the Opposition Senators that the Registrar General's office is swamped. Sen. Deonarine correctly referred to something which I have spoked about many times in this Parliament. As Attorney General, I came in as Minister of Legal Affairs, spotted what I called the golden pot of information in Trinidad and Tobago. And what is that? The registry. Recognized that my predecessors did nothing to improve the registries. In fact, the software for the Information Management System for the Land Registry was operating on Windows XP, on 12 daisy chain computers, with no server, with no licence. And in that environment the system actually shut down. I do not know if you recall, but there was a point in time when the online registry was shut down and the industry was completely shut down. Literally land transactions came to a halt in Trinidad and Tobago.

Fortunately, as Sen. Deonarine spotted, we have taken the property business



real estate solution into hyperactive position. The property business real estate solution underwritten by the IDB is on version three right now. As the Minister with responsibility we have been test driving that system, together with the legal fraternity, for two years. Version three, which is the final version comes into effect in June 2020, i.e., next month. And the entire online system for filing, for geographic information systems for land, for your maps, for your positions, every transaction that you can do in a lawyer's office, a deed, an agreement, all of that will be capable of online filing in final form by September 2020. That therefore takes us into all of the laws that we have done. We have spent time in the AG's office digitizing all of our deeds, hundreds of thousands of documents, and we have already brought forward the provisions to allow for electronic filing.

We are already electronic managing birth certificates, death certificates, marriage certificates. We have stopped 15,000 people every three days from having to come to the AG's office, the Registrar General's office. We are light years ahead of where we were in 2015, and I thank the Registrar General for all of her excellent work, together with the other agencies. We have done it. And as we go live, the Registrar General's office is no longer overburdened, and it is that same software that we are going to bring to save this country when we do the amendments to the registration of deeds package, because we are going to be allowing online filing. Sit in your office, upload your scanned copies, file it electronically, exactly as we are in the Judiciary cycle right now.

It was because this Attorney General passed the payments into an out-of-court legislation, and because this Attorney General passed the Criminal Division Act, that we are with an amazing Judiciary led by the hon. Chief Justice, Ivor Archie, able to have all of the court documents being filed and stamped on an online basis. Yesterday we told of 1,450 hearings from inside the prison done by

way of electronic facilities. Between the period March 16, 2020, to May 13, 2020, 1,450 virtual hearings were done from the prisons. So when Sen. Hosein refers to an overburdened RG's division collapsing under a breaking position, that was the 2010 to 2015 version of the Registrar General. That was the Kamla Persad-Bissessar-led Government version of the Registrar General, not this Government's version of the Register General.

Madam President, with respect to the code of ethics, we propose that that is delivered by way of the coregulatory approach. The code of ethics will be perfected between the Association of Real Estates under this law, together with the Government, in the classic coregulatory environment. We are looking particularly at the position of licensing. We had a recommendation coming from Sen. Seepersad that sales associates should be licensed. We did not want sales associates to be licensed. We wanted them to be registered every three years. The only people that need be licensed are the brokers or brokerages. Why? They are the people who are handling the money. Now. There is this reflection upon receiving and handling money. Let me make it clear, the idea is that if the money passes through your bank account that is what you are looking at. So picking up a cheque and delivering it to a lawyer or a financial institution is not handling the money. It is receiving and handling. Receiving must come first, and receiving in law means that you are encashing it into your own account or it is passing through money. We are relying upon the plain and ordinary meaning of law.

Madam President, when we look to Sen. Seepersad's enquiry about whether board members should receive remuneration. I would just like to point out that none of the board members in the Law Association, the Engineers Association, the Land Surveyors Association, the dentists, the doctors, none of them receive remuneration, because their association is intended to be operated on the pro bono

basis of participation. That is very different from members of boards of directors, and therefore we had to stand in parity with the example of other laws and how they operate. Madam President, when we look to, again, Sen. Hosein made the point about AREA being represented. Well, that just cannot constitutionally happen. We cannot incorporate AREA into this law for the reasons I have offered. Again, Sen. Hosein asked whether Cabinet can disagree with the persons appointed by the JLSC, and the answer to that is, no. The appointment under this law in section 30, clause 30 and clause 54, is that the members are to be appointed by the JLSC, the Judicial and Legal Service Commission. Madam President, Sen. Hosein said that this Bill would increase the cost of land transactions. No, Sir. That is not what is on.

We are regulating real estate agents to take away from the cost of corruption, to take away from the cost of money laundering, the cost of financing of terrorism. We know what that cost is. We saw the FIU tell this country that suspicious transactions and suspicious activities can be as high as \$23 billion in one year. So, the costs are not going to be driven up. But I would like to remind Sen. Hosein this, real estate agents in fact earn, in some instances, fairly handsome remuneration, 3 per cent, 7 per cent commission. Lawyers operate on a scale of fees, which is in fact less than 1 per cent of the transaction, and lawyers take all of the risk in the transaction, because they investigate title, if we are dealing with the conveyancing aspect. So, this is intended to reduce the cost to society. It is not the case that you are necessarily going to drive the cost of transactions upward.

Sen. Deyalsingh asked about overseas companies, what happens when they want to purchase land here. Under the Foreign Investment Act, they would have to comply with those provisions. There is a notification by way of licence, if you are over a certain acreage, et cetera. So, that law deals with that. Again, in answer to

his position on developers, as Sen. Rambharat has put on the record, we intend to deal with that separately, by separate law. For now developers must be known so that there is a methodology of tracing what they do. Sen. Sobers asked again about costs, I have answered that particular aspect. Sen. Sobers suggested that section 16(5), clause 16(5) wide, and it would allow too many persons to access the private registry. Let me repeat, 16(5) says, Financial Intelligence Unit, law enforcement officers, order of court, or any other written law. That is the same thing that we did in law for the Income Tax Act, for the Financial Institutions Act, for the Securities Act, for the Insurance Act, for the Non-Profit Organisations Act. There are at least five examples in law that I can give to you right now where law enforcement as a matter of right ought to have the view of sensitive information, or personal information, and that, as has been established in law, does not require any three-fifths treatment for the record.

Madam President, Sen. Sobers suggested that clause 35(b), “termination of member of the committee for any other reasonable cause”, was too wide. I respectfully disagree. Again, that is precedented in law as the formula that you use. In any event if you have a dispute that you have suffered by way of termination for any other reasonable cause, you have the right of judicial review, you have the right of challenge for your dismissal. Let me give you an example, the situation with Jwala Rambaran, the situation with Marcia Ayers-Caesar, all went to court, and I need say no more than that.

Madam President, Sen. Deonarine raised the issue of sales associates being licensed, as well as handling of money. I have answered those positions in law as to why we treat with that. Look, Madam President, it is critical for us to remember, a lot of people make their living in the real estate industry. We do not want to put burdensome provisions that, for instance, somebody who is working

somewhere else, has a part-time aspect of working as a real estate agent, has to go through a full licensing regime. Because what we want to do is to allow the industry to carry its players forward. What you need to have is registration if you are a sales associate. Registration means there is notice to the world. The prescribed standards would be managed by the association itself in conjunction with the Government, where you come up with what the standards are, what the code of ethics is, how you deal with the de minimis standards. But we want the association to prosper. We want the industry to be regulated so that it can grow, so that it is a sustainable profession, and it is by far the time definitely for us to agree that the real estate agents have done yeoman service to the industry of Trinidad and Tobago. They contribute 2.1 per cent of the GDP of Trinidad and Tobago and they deserve the dignity of being registered so that their profession is not seen to be a profession—as a fly-by-night profession. You ought to have the dignity of your profession anchored in law as this Bill causes.

Madam President, the certification programmes do indeed vary, and that is something that will be dealt with. Some contemplation was also given to experience. I can tell you that that is something that the coregulatory approach will deal with, somebody who has been in the industry and has by way of knowledge experience and practice. The old school solicitors qualified by being article clerks, for instance, by practice and not necessarily by qualification.

Sen. Ameen gave us a very good reflection as well, the requirement for misbehaviour in office, and bringing the office into disrepute. Sen. Ameen raised that enquiry. I would just simply say that that has been managed. It is a formula that we have used in other laws, and I want to assure the hon. Senator that we kept this law in parity with the existing laws that we have. Sen. Ameen addressed as well TTREA, and the deadline for registration of agents. I would just tell Sen.

Ameen, those issues were in fact discussed with me by TTREA. Perhaps in your consultation you spoke with some of their members, but I can tell you that I met with their members on a Zoom meeting, we discussed these issues, they messaged me while you were speaking to say that they no longer hold on to that issue because they have agreed with it in the discussions that they held in consultation with the Attorney General's office, but I thank you for raising the point. Certainly, your consultation was genuine.

Sen. Obika raised a number of very interesting positions, and I want to agree with the Senator that the contribution to GDP, the anonymizing of data, the tracking of information will help us to deal with land, land prices and land values. And I would just like to also remind, Sen. Deonarine very correctly hit the point that the operationalization of the Registration to Titles to Land Act, the land package, that is on the way. The Senator is right. Coming out of that exercise, a lot of what Sen. Obika mentioned, I should say is part of what the Government has done already. We are already on Trinidad and Tobago moving to a system of absolute title guarantee. As we bring that forward, what we needed to do, which would come up in debate next week, so I would not anticipate it, we needed to harmonize the system of registration of deeds with the registration of land under the RPA, the Real Property Act, because they are inconsistent. So we got to fix the existing system and then move our way forward into the Registration of Titles to Land Act. Five minutes?

**Madam President:** Attorney General, you have five more minute.

**Hon. F. Al-Rawi:** Much obliged. Thank you. So, Madam President, the property valuations, the property index, housing, the risk-based approach for the banking sector that Sen. Obika has raised, I would just like to tell him, the Government is way ahead on that trajectory. In fact, I can tell you that the Minister of Public

Administration, who is Minister in the Ministry of Finance, the hon. Sen. Allyson West, we have together settled a memoranda of understanding between the Government of Trinidad and Tobago and the Government of Estonia where we are bringing in the Government of Estonia to manage the data aggregation of Trinidad and Tobago into a best-in-class standard that adds on to the property business real estate solution, which, as AG, I have managed to advance to June deadline 2020. It works in tandem with the amendments we have done to the companies regime. The companies database comes up in a matter of June 2020 as well, so you will have companies online filing, et cetera.

As we move to this world of electronic transactions and data management, we get to certainty of data. Connect the dots. The Real Estate Agents Bill is tied in with the revenue authority, which is tied in with the property tax, which is tied in with the money laundering, which is tied in with the follow the money in civil asset forfeiture explain your wealth, which is tied in with beneficial ownership, which is tied in with the registration of deeds reformulation, which is tied in with removing hidden ownership by secret trusts, which is tied with the criminal justice system, which is tied in to crime, which is tied in to removing the proceeds of crime from drug trade or trafficking in persons. Because people take the profit from crime and have to wash the money somewhere, and they inevitably wash it in three ways: One, with cash; two, with companies which are fronts to real business; and three, with land purchase. And therefore, there is a web of connection in the Government's agenda, when we pass one law on the left side we also correlate with the law on the right side.

For the first time, this country has an Attorney General's office where all of the laws are interconnected in the anti-corruption machinery, where all of the laws are connected in bettering the lives of our citizens of Trinidad and Tobago, and that

is because of the combination of work between the Ministry of Finance, the Ministry of National Security, Public Admin, the Ministry of Agriculture, the Ministry of Trade. All of these Ministries work in tandem with the Attorney General's office, and therefore we have one matrix to work with.

Madam President, I genuinely commend this law to hon. Senators. We propose to move amendments to clauses 9, 30 and 54 at committee stage, and I would ask for those amendments to be circulated. I genuinely look forward to the committee stage of this Bill, and welcome hon. Senators' recommendations, if there are any further ones, in particular those to be circulated, and I beg to move.

*[Desk thumping]*

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Madam Chairman:** The Attorney General's amendments are being circulated as we speak. Are there any—Sen. Mark, are there any other amendments apart from the Attorney General?

**Sen. Mark:** I am having them typed up at this time.

**Madam Chairman:** Having them typed up?

**Sen. Mark:** Madam, we do not have resources.

**Madam Chairman:** Attorney General, are you ready?

**Mr. Al-Rawi:** Yes, please. Are we awaiting Sen. Mark's?

**Madam Chairman:** No, we are proceeding.

**Mr. Al-Rawi:** We are proceeding? Sure.

**Madam Chairman:** Perhaps Sen. Mark you can indicate what clauses.

**Sen. Mark:** *[Inaudible]*



**Madam Chairman:** Yes, thank you.

*Clauses 1 to 4 ordered to stand part of the Bill.*

**3.55 p.m.**

*Clauses 5 to 7.*

*Question proposed:* That clauses 5 to 7 stand part of the Bill.

**Sen. Mark:** Madam Chair, could I ask the Attorney General as it relates to—it is 5 and 6, right, Madam Chair?

**Madam Chairman:** Clauses 5 to 7, yes.

**Sen. Mark:** Attorney General, the matter of clause 6, you indicated that you will be bringing legislation shortly to deal with the licensing of developers. You care to elaborate and indicate to us what is the name of this piece of legislation and when you anticipate its arrival?

**Mr. Al-Rawi:** Thank you. Madam Chair, what I indicated was, just after the general election when we return to office that we would pick up that particular point. I really did say exactly that; that we would pick up this particular piece of position because it requires consultation and it requires a deliberate product. What I can say right now, Madam Chair, is that developers who engage, if you look to the language of clause 6(1):

- “(a) erecting buildings or structures...
- (b) causing infrastructure...
- (c) causing the subdivision...”

All of those are regulated already but in disparate ways. Town and Country Planning, Land and Surveys Division, WASA, municipal corporations, Ministry of Works and Transport, fire, et cetera, all of these sub-reg—and to of course under the Planning and Facilitation of Development Bill there would be some harmonization. What we thought was unacceptable, what we think is unacceptable

is that you have to rely upon those information pots being secret or being hard to find. I said it in my wind-up where we were looking at the Freedom of Information Act really to get that kind of information. So for now what we are doing with the capture of a developers register is to have a public registry that says, “Aye, I am a developer”, and therefore it would cause a necessary interaction for scrutiny by whomever may be interested in the position. It is to give a central repository so that people would have better information of the positions.

**Sen. Ameen:** AG, Madam President, I do not know if this is the right time to raise it. There was also a concern about the accessibility to the registry that Sen. Lyder spoke about, in terms of it being available online or if a person at present would have to come down to Port of Spain to request the information?

**Mr. Al-Rawi:** Under the Registrar General’s Act and under the Electronic Transactions Act all registers are available electronically. So as a matter of fact, the Companies Registry, the Land Registry, the birth Registry, in some instances, they are all available online. What we are doing is we are taking that further, if I could just assure you, under the property business real estate solution which goes into version three in June 2020 and which goes live, because we are going to physically be testing it together with multiple participants; stakeholders are going to be using the system in the period June to September and then everything will be online. But we have been doing that for over two years already. Yeah?

*Question put and agreed to.*

*Clauses 5 to 7 ordered to stand part of the Bill.*

*Clause 8.*

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

**Sen. Mark:** Madam Chair, on a point of clarification—

**Madam Chairman:** Sen. Mark, you need to speak into the mike a little bit please.

**Sen. Mark:** Yeah, I was making the point about, on a point of clarification, I would like to ask the Attorney General, all persons are required to be registered once they engage in real estate business. We are of the view that once you are registered you ought not to have this process repeated every three years. Once you are registered, that should be for life. And you have a licensing arrangement that will take effect every three years, which we have no problem with. Would you want to consider a one-off registration rather than having somebody register every three years as opposed to a one-off arrangement, Attorney General?

**Mr. Al-Rawi:** Sure. I thank Sen. Mark for the question. It is driven by practicability, practicality, it is driven by a number of positions. What we have observed, what I have observed as the Minister with responsibility for Legal Affairs is that we have our registers filled with junk, meaning, outdated information, people do not come in and give positive positions and what we have noticed is very useful is when we put a repetitive cycle for registration and renewal, people come in with current information because you put in the obligation on them to come in. The Companies Registry alone has over 20,000 defunct companies on it. And then we have to go through a painstaking process under the Companies Act to have them struck off and hunt down people and that causes immense abuse of resources and also opportunities for fraud.

So in the circumstances we took the model from the non-profit organizations law, which we just recently passed, and we kept to the three-year renewal process because it would better our chances at having information current and therefore easily accessible.

**Sen. Ameen:** Attorney General, we renew our driver's permit every five years, every 10 years according to your age. Could we look at having a longer period? I understand your rationale for not having it for life, the registration for life, could

we look at a longer period than three years?

**Mr. Al-Rawi:** May I? So I welcome the suggestion. We sought to harmonize it with the non-profit organization, but really and truly we also sought to take advantage of the fact that we know the PBR system is coming. And in the PBR system, and with the companies system, I did not get to say this, we purchased and installed a brand new Companies Registry. So the Companies Registry would have fallen into disuse, it was out of licence, et cetera. So we took the provider for the birth registry, births and deaths, which is AXIAL, it is a Canadian company with Australian ties as well and we bought them in to do the Companies Registry. They have already installed all their hardware, migrated data, and we are going to go live with a brand new Companies Registry in June of this year, all things being equal. That means that the re-registration process, which is a filing of a company type document, can be done online.

In fact, Madam President, I propose to bring a miscellaneous provisions Bill in the next week or two which will allow us to put that into law so that we can do e-filings on these bases. So I understand the hon. Senator's enquiry, the ease of doing business in many senses but we believe that we have an IT solution to manage that.

*Question put and agreed to.*

*Clause 8 ordered to stand part of the Bill.*

*Clause 9.*

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

In subsection (2), delete all the words after "Registrar General" and substitute the words "that at least one of its directors or partners, as the case may be, is registered under this Act".

**Madam Chairman:** Attorney General, your amendment.

**Mr. Al-Rawi:** Yes, Madam Chair. Madam Chair, we had a recommendation coming from the stakeholders that we were being unduly restrictive in subsection (2). So subsection (2) says:

“(2) Subject to...10, a company or a partnership may be registered as a real estate agent, upon satisfying...that its directors or partners, as the case may be, hold the prescribed qualifications.”

Now, under the Companies Act, Chap. 81:01, you have to have a minimum of two directors. So that means that we would be obliging both people to be registered in the real estate industry. And the sensible recommendation that came in, I believe that it was TTREA that asked for this, they said some of us have investors and one of us is the agent and the other person may just be a director. That had some compelling factors inside of it. So what we proposed to do is to amend subclause (2) and instead say that we only needed at least one of its directors or partners as the case may be to be registered under the Act. So that way we did not unduly shrink the industry by having both the directors or both partners as positions of licence. So that is the rationale, Madam Chair, for the amendment proposed and circulated to clause 9.

**Sen. Mark:** Madam Chair—because TTREA, whatever that organization is, is that the reason why you are doing it or there is some other reason in the public interest you are doing it?

**Mr. Al-Rawi:** Well, I just explained that. The reason in the public interest is that at law to have a partnership you need two people. Under the Companies Act you have to have a minimum of two directors under the Companies Act. The industry, the public interest is that you may have companies where you have an investor, somebody else and only one person who is performing the real estate function. So that one person as a director should be qualified. But the other person does not

necessarily need to be. So it is purely public interest, it does not matter who said it, it may very well have been AREA who said it, I just cannot remember who said it. But the point is that there was merit in the submission that if I said both partners or if I said directors, it meant that everybody had to be qualified. And as you know sometimes boards of directors are comprised with external persons where you want to get an outside perspective. It will be unduly restrictive to ask all of those external people to be real estate agents or sale associates.

**Sen. Ameen:** But AG, this does not cater for companies to be registered as agents.

**Mr. Al-Rawi:** Yes, it does.

**Sen. Ameen:** Only individuals. In this case when you say you are asking for only a director or one person.

**Mr. Al-Rawi:** So, Madam Chair, clause 9 says:

“(1) Subject to...10, an individual may be registered as a real estate agent, upon satisfying...”—that you are:

“(a) ...eighteen”—individual meaning a natural person—

“(b)”—and you have the—“qualifications.

(2) Subject to...10, a company or a partnership may be registered as a real estate agent, upon satisfying...that its directors”—now we are going to say at least one of its directors—“or”—one of its—“partners, as the case may be, hold the prescribed qualifications.”

So subclause (2) allows companies and partners.

**Sen. Ameen:** Okay, so now you say you only want one director or one of the partners to be qualified?

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

**Sen. Ameen:** Okay, thanks.

**Mr. Al-Rawi:** Yep.

*Question put and agreed to.*

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

*Clauses 10 to 12 ordered to stand part of the Bill.*

*Clause 13.*

*Question proposed:* That clause 13 stand part of the Bill.

**Madam Chairman:** Sen. Mark, you proposed an amendment.

**Sen. Mark:** Yeah. I will ask Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam Chair. Through you, Madam Chair, Attorney General, I am looking at 13(4) with respect to the particulars of the register of real estate agents. We believe also AG because the sale associates will fall under the brokers in terms of supervision, we would also want to include a particular in the register for all of sale associates that would be supervised by a particular broker.

**Madam Chairman:** There is another aspect of the amendment, Sen. Hosein.

**Mr. Al-Rawi:** (3)(g), we are asked in (3)(g) for “registration and”. So date of renewal of registration, you are asking to remove the words “registration and”. So you are going, date of renewal of licenses.

**Sen. S. Hosein:** Yes.

**Mr. Al-Rawi:** It is self-explanatory.

**Sen. S. Hosein:** Because AG, our position from the second reading of the Bill was that we were asking that the persons engaged in real estate business they just register once, just like the Law Association and then we have the licences alone that is being renewed. Hence that amendment is prompted in (3)(g). That is our policy with that. And then the other one is what I just explained in terms of including a particular with those sales associates.

**Mr. Al-Rawi:** Understood. Yes, so, thank you hon. Senator. I understand the

rationale for the proposed amendment to (3)(g). Our policy is for the renewal of registration. So we respectfully do not accept the removal of “registration and” because that will be a cyclical position.

In subclause (4)(b) the request to supervise sales associates list that. It actually came in the House where Dr. Tewarie raised the issue as well and the rationale that I gave him then I give now, which is, because sales associates move from transaction to transaction at each time, we found it—you may find yourself with sales associates listed now who are not going to be sales associates next day or the day after. Because we had the registration of all sales associates on the public register we wanted the brokers just to describe themselves because the industry practice is that it is really very fluid. People just come on and come off for transactions from time to time. So I understand the reason, it is commendable the thought, but the industry practice lends itself to a difficulty in having that registration. They will have to file changes on a constant basis because the person came on and came off in those circumstances. So if I may respectfully for those reasons not accept the recommendations to clause 13.

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

*Question put and agreed to.*

*Clause 13 ordered to stand part of the Bill.*

*Clauses 14 to 17 ordered to stand part of the Bill.*

*Clause 18.*

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

**Sen. Mark:** Yeah, Madam Chair, we had raised the matter of the—first of all, we believe that registration should be a one-off, the AG say the policy of the Government is not one-off. We are saying, and that is why we had proposed, the removal of the three-year period of registration. So we would like to ask the AG to



consider that again although he considered it.

**Mr. Al-Rawi:** Madam Chair, I have already offered the Government's rationale for explanation so I respectfully decline the invitation.

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

*Question put and agreed to.*

*Clause 18 ordered to stand part of the Bill.*

*Clauses 19 to 21.*

*Question proposed:* That clauses 19 to 21 stand part of the Bill.

**Sen. Mark:** Again, Madam Chair, once a member of the public, in this instance, a registrant is unhappy—

**Madam Chairman:** May I ask what clause, Sen. Mark, you are dealing with?

**Sen. Mark:** Clause 19 we are dealing with, right?

**Madam Chairman:** We are dealing with 19 to 21. So clause 19, yes?

**Sen. Mark:** Yes, I am dealing with clause 19. Right?

**Madam Chairman:** Yes.

**Sen. Mark:** Where the person, in this instance, a registrant, would have to—if he or she is not happy with decisions taken by the Registrar General on an issue of renewal then the person will have to take his matter directly to the High Court. And I said in another debate that we should try to create a mechanism to avoid people from going to the High Court if they are not satisfied with the level of redress and at level. So I am asking the Attorney General whether we can look at some mechanism here that would permit people to avoid expenditure that is sometimes—or expenses—that might be beyond their reach at times.

**Mr. Al-Rawi:** Madam President, we had a long discussion on this on a different Bill yesterday and I do understand Sen. Mark's submissions. The experience has—Sen. Vieira in fact reminded us yesterday—is certainly one that tribunal

sound good in theory, but they are actually perhaps more expensive than actually getting to court. The harmonization that this law proposes is with the Companies Act, the Non-Profit Organisations Act, et cetera, where any aspect of refusal under the existing Companies Act actually goes to the High Court. That has worked extremely well in a manner that has no difficulty and no real problems in terms of cost, et cetera, and for the sake of harmony and also for the policy that the court is the best position we respectfully believe that it is properly drafted the way it is.

*Question put and agreed to.*

*Clauses 19 to 21 ordered to stand part of the Bill.*

*Clause 22.*

*Question proposed:* That clause 22 stand part of the Bill.

**Madam Chairman:** Sen. Mark, you have circulated an amendment. Sen. Hosein, Sen. Mark.

**Sen. Mark:** Let Sen. Hosein—

**Madam Chairman:** Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam Chair. Madam Chair, this particular amendment deals specifically with the composition of the board of the real estate agent association. We believe, Madam Chair, that there should be some more representation on the board in terms of having two members who are brokers and also the other amendment will deal with the experience from five years to 10 years, simply AG, because we are trying to establish an association that has some very experienced members at the executive level who would be able to guide the policy of the association seeing that they have now been given a lot of responsibilities in terms of a long list of what the association can do that is found at clause 24.

**Mr. Al-Rawi:** I thank the hon. Senator for it. This is actually something we

wrestled with, the years of experience. But if I may deal with the first point first because the first submission is to change the word “member” to “persons”. Because in clause 27 as it reads to this we are actually having mandatory membership. We want these people to be members. So it must come from their flock. So if I may respectfully not accept the recommendation for the change from members to person for the reason that there is a mandatory membership, just like the Law Association has a mandatory membership.

With respect to the number of years five years or 10 years, we had long discussions with the stakeholders in particular. And the fear was that there is actually a small amount of people who could meet the 10-year category. And what they wanted was in the event that they did not have the membership with that number that they wanted in fact the lower bar of five years. I think that as the profession grows certainly an amendment is going to be required. So like the Law Association we get to senior ordinary member and junior ordinary member, but we are not there yet, particularly because people for brokerages or brokers have to go through a licensing regime which requires qualifications and then there are qualifications that have to happen by way academia.

So we may find that the five years is hard to achieve as it is because I do not know how many people have the academic qualifications now. That is why we are waiting on those prescribed qualifications to be developed in coordination with the industry. The Government does not pretend to know the industry as well as the industry does. As Attorney General I have a perspective on the industry certainly from my years in conveyancing and mortgaging and in corporate law I have a very good perspective. But that is as an attorney at law. So for those reasons because of the pot perhaps being too small at the 10 years as we now start this law we wanted to stick with the five years.

**Sen. S. Hosein:** Just for the record, I would just like to say Attorney General, that this particular amendment was because of consultation I had with some members of industry, hence that it was brought that we increase the years of experience. So it is not my amendment per se but it is borne out of the consultation that I had with members.

**Mr. Al-Rawi:** Madam Chair, if I just quickly say, I fully well understand that, Sen. Hosein. I did not mean to come across any other way other than welcoming the suggestion.

**Sen. Mark:** What role, if any, do you envisage for the current organization called AREA as it relates to this piece of legislation in the context of Part IV, 21 to the point that—21 to whatever we are dealing with. Do you have any role for this organization or you think that organization is just going to get—become extinct?

**Mr. Al-Rawi:** Sure so, Madam Chair, we actually met with AREA for over a year and discussed, because they were the first promoters, together with the AG's office, and they really engaged in a most amazing way. If I may, Madam Chair, thank profusely, in particular, Mr. Mark Edghill, who really championed this particular work, together with his predecessor at the helm of AREA.

The difficulty we have in incorporating AREA is that we would collide with the equality of treatment aspect because AREA is not the only association, it has been a recent association born. But the point is whether they are young or they are old there still is another association. What is intended here is that all of the real estate agents will come into the system by way of registration. They will therefore become persons who are mandatorily required to be members of the association because section 27 of Act will provide for that. Those members will then convene a meeting, it is set out in the Schedule how the first meeting is done, and by popular vote will vote whomever they want into, exactly as we do for the Law

Association when we have our meetings to elect the executive of the Law Association or the Dental Council or the Medical Council, et cetera.

So this is really to preserve democracy in the equation. How they arrange themselves, how they lobby, how they manage to get, is entirely up to the membership of the real estate association. That is up to them. So they would have the responsibility.

**Sen. Mark:** Madam Chair, how is this association in the legislation going to be funded and financed in terms of operations. Because—

**Mr. Al-Rawi:** I understand, I understand.

**Sen. Mark:** If I may just be ahead of time, they are asked to provide secretarial services for two committees, the Disciplinary Committee and the Licensing Committee. So I am asking you where are they are going to get the funding from for this.

**Mr. Al-Rawi:** Very valid question. They get the funding from themselves by way of their payment of fees for subscription for membership. The Law Association has its fees for membership, the only board that I have come across ever that has the bill paid for by the Government is the land surveyors. And the reason is because we found it very anomalous of the land surveyors were underwritten by Government, is because the vast majority of land surveyors worked for the Government at the Commissioner of State Lands, Lands and Surveys Division. Every other board medical, dental, engineering and lawyers in particular demonstrate that they more than have the ability to afford their affairs. In the case of the attorneys at law, for instance, they have that much money they could have brought their own premises, their own buildings, their own structures. So it can be self-funded.

**Sen. Mark:** And who will prescribe fees? Is it going to be the Government or is it

going to be—

**Mr. Al-Rawi:** It will be up to the association.

**Madam President:** Hon. Senators, the question is that clause—Sen. Thompson-Ahye.

**Sen. Thompson-Ahye:** Yeah. Are you still on 22(2)?

**Madam Chairman:** I am on clause 22 dealing with Sen. Mark's amendment.

**Sen. Thompson-Ahye:** Yes. I was looking at the one with the years, the number of years, five and 10. Because I want to suggest, because I myself find five years' experience for the attorney-at-law is a bit low. If we could find a middle road, find average between yours Mr. Attorney General and Mr. Hosein and say seven years. I would be more comfortable to have seven years as a broker and seven years' experience rather than the five years that you seem to like.

**Mr. Al-Rawi:** Number one, from a precedent point of view we go in brackets of five and 10. Number two, the problem with brokers in particular is remember this is virgin territory. We now going to have a licensing of brokers for the first time and therefore the clock starts at zero and therefore it is going to be extremely difficult potentially to even find somebody who meets five years as it relates to the brokers. We have gone for the five years because if we look to the concept of a magistrate, the qualification for a magistrate is five years' experience. A judge is 10 years' experience; a master is seven years' experience. So we are looking at it from the precedent point of view at five years and particular to keep it in parity with the brokers at five years because we are starting the clock at zero and as we press the start, we then get the years moving.

**Sen. Thompson-Ahye:** You would have done your homework—

**Mr. Al-Rawi:** Yeah.

**Sen. Thompson-Ahye:**—and you are therefore able to say how many brokers have

in fact five years before you decided to put this in the legislation?

**4.25 p.m.**

**Mr. Al-Rawi:** Yes, of course we can. For instance, I have already referred to the fact that—I can tell you, Madam Chair, in the bracket of AREA alone, AREA has several brokers registered with them. There have 48 corporate entities, 167 sales associates, 215 members, and if I am not mistaken, they had a certain number of brokers. I cannot find it on my phone just now, but we have brokers. The problem inside of this is when you get to the provision that is for the licensing of brokers, when we get to that part, the prescribed qualifications have to yet be managed. That is why we put in clause 83 to allow for the 12 months, and 18 months for brokers. So we are not quite sure where they are going to draw the line on brokers yet, who is qualified and who is not. That is up to the association to do those things, the committee to do those things.

In those circumstances, to raise the bar too high at present, may unwittingly cause us to lock people out. So, even though there are a number of brokers right now, these brokers as “qualified” means what. There are no qualifications for brokers in Trinidad and Tobago right now legislatively. It is an ad hocism. It may come from the US, it may come from the UK. They may be just a number of years of practice, they style and call themselves brokers, but they are not really in a standard of being a broker. So that comes about when the Licensing Committee says what the qualification for a broker is as we come further into the Bill. So for those reasons, we prefer to stay at five.

**Sen. Thompson-Ahje:** But you know the question of qualification and so on, would not really impact the number of years, because you are still looking for people, and you have started off by talking about the importance of this organization. So that is why I suggest that the five years is a bit low because you

have said, you know, that it is a lot to do with money laundering, and detection, and terrorist financing. These are heavy matters, you know.

**Mr. Al-Rawi:** So may I ask you: What is a broker?

**Sen. Thompson-Ahye:** Sorry?

**Mr. Al-Rawi:** If I asked it this way: Who is a broker? What is the qualification in Trinidad and Tobago for a broker right now?

**Sen. Thompson-Ahye:** The fact is whether you define them or whatever, you are going to be looking for persons of certain experience, right? Whatever is the nature of the experience is something that you can determine afterwards. So the number of years that you are in the particular business, that you consider important, can determine who is a broker, is not the same kind of question you are asking. You see.

**Mr. Al-Rawi:** Yeah.

**Sen. Thompson-Ahye:** So all we are trying to do is to find a middle road with something that people are comfortable with.

**Mr. Al-Rawi:** So, unfortunately—

**Sen. Thompson-Ahye:** So I prefer—the fact is I prefer seven years. And I am telling you, I prefer seven years rather than five years. I am more comfortable with that. Whatever you determine it to be, the qualifications to be.

**Mr. Al-Rawi:** Madam Chair, my difficulty is that I do not know what the qualifications are. So because I do not know what they are—because the industry will settle that in due course in a co-regulatory point. To put it at a higher level, may be problematic. So we prefer to start at five years because we have yet to crystalize what the qualifications are. There are no qualifications at law right now for brokers. So under the Legal Profession Act we know you need to have an LLB, you need to be called to the Bar at the Hugh Wooding Law School, or under



the six-month regime. We have certainty of qualification. There is no certainty of qualification for brokers at present right now. So—

**Madam Chairman:** Attorney General, I think Sen. Mark was to raise something.

**Mr. Al-Rawi:** Yes, please. Sure.

**Sen. Mark:** I would like to support Sen. Hazel Thompson-Ahye on this. I think the AG is sometimes, when he is making his argument, he is saying that we have not set the qualification bar, but we have a lot of people outside there and he has not been able to find on his phone the number of brokers that has five years' experience, 10 years' experience, 15 years' experience. So I think it is an eminently reasonable proposal. We had proposed 10 years because we felt that this is a very important industry and this five-year experience was too low, and if, for instance, we are trying now, through the submission made by Sen. Thompson-Ahye, that we should try to find a middle road— I think the AG referred to a magistrate as having seven years' experience—

**Mr. Al-Rawi:** [*Inaudible*]

**Sen. Mark:** No, you talked about somebody—

**Mr. Al-Rawi:** A Master.

**Sen. Mark:** A Master having seven years before they become a Master. So I think this is an eminently reasonable proposal and if the Attorney General does not want to give in, can I propose an amendment?

**Madam Chairman:** Well, you have an amendment before us right now. Attorney General—

**Sen. Mark:** Well—

**Madam Chairman:** Hold on one sec. Attorney General, just respond and then we will treat—

**Mr. Al-Rawi:** Sure.

**Madam Chairman:** —if you want to further amend, Sen. Mark.

**Mr. Al-Rawi:** So, Madam Chair, I understand the wisdom of saying let us go for a higher bracket at seven. I do. I genuinely thank Senators for that recommendation. It is not that I just refusing for refusing sake, if I may just make it clear. When we get down to clause 40 of the Bill, “Licensing of Brokers”, and we get to 40(5)(iv):

“has satisfactorily completed such training in real estate business with an institution accredited by the Accreditation Council or such course in real estate business recognised by the Accreditation Council, as the Committee may approve;”

Then we get to 40(5)(v):

“has satisfactorily completed such additional training with an institution accredited by the Accreditation Council or such additional courses recognised by the Accreditation Council, as the Minister may...after consultation with the Association...”—approve.

And then when we get down to clause 83, down in the Bill, and we looked to the transitional provision, what this does is to say that the committee is going to, in the consultation with the Association of Real Estate Agents, the committees going in a consultation to decide upon what the qualifications are. These are not cast in stone now. They are going to be formulated in the road ahead and when made certain, the risk in law is that we may be with a very small bracket of people. The number of people in Trinidad and Tobago who call themselves brokers right now, or who call themselves real estate agents right now, it is just that they call themselves that. It is like somebody calling themselves a journalist. We had a court recently decide upon whether somebody was a journalist of convenience or not, just as an example.

So the problem we have is that there is no present qualification as to what a

real estate agent is, what degree you need to have, or course, or experience. That must come out organically from the consultation with the industry. The industry must decide, look, I have been in this business as a real estate agent for 50 years, but I do not have an education. Anthony N. Sabga, who founded the ANSA McAL empire had primary school education, full stop. But nobody could dispute that he was one of geniuses of this country. So we need to leave room for the industry to decide for itself what the qualifications are.

Sen. Karim in the House raised the point of life experience and he was right, that it is a certifiable thing—that is why in my wind up I referred to article clerks. So you did your articling to qualify as a solicitor but you did not have to go to a university to do that. So because of those things, I could say nine years, seven years, four years, three years, I do not know what the qualification is yet. That is an exercise to happen. So it is not that I am being obstinate in refusing genuine, meritorious suggestions from Sen. Mark or Sen. Thompson-Ahye. It would be imprudent as the drafter of law for me to now draw a line in the sand where I do not know what the product is.

**Madam Chairman:** So, hon. Senators—Sen. Mark, at this stage you want to put the amendment? Is it that you want to further amend?

**Sen. Mark:** Madam Chair, before I propose a further amendment from 10 to seven years as a compromised solution, I would like to ask the Attorney General, through you, based on my own consultation—

**Madam Chairman:** Senator—

**Sen. Mark:** No, I am just advising him that ROYTEC has a course, a two-year course, in brokerage that many of the same brokers have attended. Now I do not know if ROYTEC is affiliate— or is accredited by the accredited council and therefore, I do not think it is fair to just dismiss saying that there is no

qualification.

**Madam Chairman:** So, Sen. Mark, at this stage—

**Sen. Mark:** So I am proposing, Madam Chair, with your leave—

**Madam Chairman:** I have your amendment. You are further amending changing “ten” to “seven”.

**Sen. Mark:** Yes, I am supporting Sen. Thompson-Ahye.

**Madam Chairman:** Hon. Members, the question is that clause 22, be amended, as circulated, by Sen. Mark, and further amended by deleting the word “ten” at B, and substituting the word “seven”.

**Sen. Mark:** I want a division on that.

**Madam Chairman:** So it is 4.35. At 4.38, we will commence the division. I would ask that all Members return to the Chamber to vote. I will restate it. So we are about to commence the division. Hon. Senators, the question is that clause 22, be amended, as circulated, by Sen. Mark and further amend it at B by deleting the word “ten” and substituting the word “seven”.

*Question put.*

**Madam Chairman:** Hon. Senators—no, no. Division now. The question is, hon. Senators, we are voting on the amendment put forward by Sen. Mark and further amended.

**Mr. Al-Rawi:** Madam Chairman, may I ask a question, please?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** I fear because I, unlike you, have the experience of going downstairs. I fear that Senators present here may not know what they are called upon to vote on—no, I am seeing a yes coming from Sen. Vieira across there. Maybe, I do not know.

**Madam Chairman:** Attorney General, just one second. Members are supposed—

if you are out of the Chamber, you can follow the proceedings in all the various ways that you can follow the proceedings when you are out of the Chamber. There is a list of amendments circulated by Sen. Mark. We are dealing with clause 22. The amendment is further amended at B to delete word “ten” and substitute the word “seven”. We will now commence the division.

*The Committee divided:* Ayes 8 Noes 15

AYES

Mark, W.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Lyder, D.

Deonarine, Ms. A.

Seepersad, Ms. C.

Thompson-Ahye, Mrs. H.

NOES

Khan, F.

Gopee-Scoon, P.

Baptiste-Primus, J.

Rambharat, C.

Moses, D.

West, Ms. A.

Cox, Ms. C.

De Freitas, N.

Singh, A.

Lester, Dr. H.

Dookie, D.

Williams, J.

Vieira, A.

Phillips, Dr. Z.

Drayton, J.

*Mr. P. Richards and Dr. M. Dillon-Remy abstained.*

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

*Question put and agreed to.*

*Clause 22 ordered to stand part of the Bill.*

*Clauses 23 to 26 ordered to stand part of the Bill.*

*Clause 27.*

*Question proposed: That clause 27 stand part of the Bill.*

**Madam Chairman:** Sen. Mark, you have amendments? Sen. Hosein.

- A. After the words “register” insert the words “and holds a valid license” and;
- B. Delete the words “register to”.

**Sen. Mark:** Let Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam President. Madam President, this amendment to clause 27 of the Bill deals with who will be recognized as a member of the association. Now AG, based on your model that you proposed that you have the registration having to start over every three years in terms of renewal, this again was based on our policy one-time registration renewal of licence. So we are saying that if we had proposed that model and had you agreed, it would have now been that a person would have had to hold a valid licence in order to participate into the voting and any other things related to the business of the association. So

that is the amendment that we proposed here in terms of qualifying who becomes a member, that they should also hold a valid licence.

**Mr. Al-Rawi:** Madam Chair, I thank Sen. Hosein for such a clear explanation. I certainly understand his point of view. We have put that question already about whether one should have a one-time registration or the renewal of registration. From the Government's point of view, we are recommending the renewal of registration every three years: (a) to keep it in harmony with the non-profit organization recent approach; (b) to take care of the disaster that the companies law is where we do not have companies with up to date documents because there is no mandatory position; (c) to keep it along the line of things like driver's permits or passports, et cetera, to make sure you are dealing with the right people at the right time; and to avoid a deregistration exercise which the registry would then have to do which is like searching for a needle in a haystack.

In this case here, clause 27 is literally two lines long, but is the heart and essence of this entire Bill really. This is the clause for mandatory membership. This is the clause that makes it all work, literally. So I do understand Sen. Hosein's point of view. It was premised upon something that we had spoken on already. The hon. Senator was careful to say that, and may I respectfully decline the invitation on this occasion.

**Sen. Obika:** Thank you, Madam Chair. Before I take my leave from social distancing I just wanted to ask the question. There are co-operatives that are engaged right now in property development, Point Coco Agricultural Cooperative Society in Granville is one, there is Rancho Quemado, and there are a couple others that are set up for the sole purpose of developing property and selling to their membership. Would there be any ability of the cooperative itself to join the association, given that the members themselves may not perform the function of an

agent until the times the cooperative decides to divide property among its members?

**Mr. Al-Rawi:** Madam Chair, Sen. Obika's observation is dealt with under clause 6. So clause 6 is where we have the register of developers. If the cooperative is engaged in the marketing arrangements in the manner that we capture in clause 5, which is business of real estate, well then, you may very well find yourself open to registering yourselves as a real estate agent because there is nothing to stop anybody from being registered as a real estate agent. You can apply via the form, get the prescribed qualifications in gear and therefore, legitimately call yourself a real estate agent as a sales associate or a broker, whichever way you want to go. But we had sought to capture the cooperatives, the part-owner dealing with himself in those arrangements in the developers context. Because what Sen. Rambharat correctly said, that is a whole industry that needs to be developed by itself, the self-organization, the part-owner, because they really fall within the definition—sorry, they fall in clause 5.

**Sen. Obika:** There is another type of organization, those are the property management agencies that deal with rental of properties and on so, how are they to be captured?

**Mr. Al-Rawi:** They are captured, Madam Chairman, in the earlier sections. So when we are looking at—so the part-owners are caught, that is where the cooperative societies will come in, not so much as developers, right? They are caught under clause 5(2)(d) where you are dealing with property of which you are an owner or part-owner. When you are dealing with developers, it is subclause (e) and the register of developers. And developers can potentially also capture the cooperative that Sen. Obika just referred to. Sen. Obika, would you mind just reminding me the other question that you just had?



**Sen. Obika:** The other would be the companies that are involved in property managing. So, for example, they rent properties—

**Mr. Al-Rawi:** Right, got you. So that is captured in the definition of what real estate is, practice of real estate. If you look at it:

“5 (1) (c) engages in property management, either as a consultant or an agent;

(d) takes part in procuring...”

“(b) advertises...hold himself...”

“(e) directs...assists...”

And when you look up the definition of property management which is in clause 2 or 3, whichever one it is, property management is defined—it is at page 4 of the Bill, or my page 4:

“3 ‘property management’ means overseeing...real...”—estate—  
“owned by another person...”—et cetera.

So we captured it in the definition section properly.

**Madam Chairman:** Hon. Senators, the question is that clause 27, be amended, as circulated by Sen. Mark.

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

*Question put and agreed to.*

*Clause 27 ordered to stand part of the Bill.*

*Clauses 28 and 29 ordered to stand part of the Bill.*

**4.50 p.m.**

*Clause 30.*

*Question proposed:* That clause 30 stand part of the Bill.

In subsection (2) -

(a) in the chapeau, delete the word “seven” and substitute the word

“nine”; and

- (b) in paragraph (e), delete the word “two” and substitute the word “four”.

**Madam Chairman:** Now there are two sets of amendments, one circulated on behalf of Sen. Mark, one circulated on behalf of the Attorney General. We will treat with Sen. Mark’s first. Sen. Mark. Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam Chairman. Madam Chairman, this particular amendment deals with firstly the removal of the Minister in terms of the nomination of the persons in the real estate business to form part of the Licensing Committee. We found it better that the Minister should be making the appointment on the recommendation of the association because it is really the association will be the representative body of the real estate agents. So that is the first amendment that we propose.

The second amendment is that we also would like to change the composition of the committee and this brings us back to the same point that we debated earlier, with having two brokers and each having 10 years’ experience in the field of real estate business, and they also will be nominated by the Minister on the advice of the association. Thank you.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Chair. Madam Chair, this inclusion of “Minister” in subclause (2)(e). So first reference to Minister is the:

“(d) ...person with experience in accounting...finance, nominated by the Minister;

(e)”— is— “two persons...having at least five years’ experience in real estate business, nominated by the Minister...”

Now, here is the heart of this entire position. This concept of real estate agency

management, in every jurisdiction where it is successfully done, is done by way of co-regulation. Let me repeat that, co-regulation, because it affects the State but it affects the industry as well. What we did is we birth the concept of the association. We just dealt with that in Part IV in the provisions earlier that is coming before clause 30. In the association's composition, they organically look after themselves. They comprise themselves. They run their business. They come up with their stuff. They maintain their standards. They have full input. When we get to this clause 30, we are talking the Real Estate Agents Licensing Committee. There is a risk and danger in himself to himself and because in the real estate industry, when you are treating with these issues, you have to have a co-regulatory approach.

The Minister, i.e. the representative of an Executive or a Government has to have a role, so the only place that we put the concept of a Minister coming in is in the two committees that we are dealing with, one for the Disciplinary Committee and one of the Licensing Committee. But we are very careful to fetter that Executive involvement by ensuring that the people that have command of these committees—in clause 30 here we are dealing with the Licensing Committee—the people would command that these committees are appointed by the Judicial and Legal Service Commission, not by a Government. So the co-regulatory improvement anchors (1) in clause 30, which is what we are looking at here. It is for those reasons that we put “Minister”.

If we were to put in the recommendation that it is on the advice of the association, well then there is no more co-regulation. The co-regulatory aspect does not include any aspect of Government, because you got the JLSC, you have the association but there is no state enterprise inclusion, and the State has to be involved because we are looking at the effects of the industry upon financing of

terrorism, fraud, money laundering, trade, ease of doing business, planning and facilitation, et cetera. So this is where the concept of co-regulation comes in. It is at clause 30 and it also, of course, repeats itself in clause 54.

The second aspect or rather third aspect of Sen. Hosein's submission comes back to an issue we just described, 10 years' experience in real estate business. Now, we wrestled with this just as we did with the brokers because we have not yet settled the ground as to what the qualifications are in the prescribed qualifications. If I could just repeat this, what we are doing is allowing the industry to describe and settle upon what its qualifications are, and when you go to the qualifications for brokers, or the qualifications for real estate agents, it involves, in the brokers for instance, accreditation. That accreditation has not yet been settled.

When I went to the accreditation aspects a short while ago, when most Members were out of the Chamber, I pointed out, when you look to licensing of brokers for instance, clause 40(5)(a)(iv) and (v):

“...Accreditation Council, as the Committee may approve...”

We have not settled what their qualifications are going to be yet because in the co-regulatory approach, the industry needs to settle what its qualifications are going to be, which is why we wrestled just now with the submission as to whether we should have five years or seven years or 10 years. Because if we go too far and say 10 years now, what happens if very few people qualify? It does not give a fair opportunity for people to qualify. Now, obviously, when you say a five-year standard, that is *de minimis*. If a man rolls up with 20 years' experience or 10 years' experience, or a woman, then obviously in the nomination prospect, the better candidate succeeds.

So it is not that we are being obstinate about the limit, it is because there is a moving target right now of accreditation. For instance, my recommendation on

accreditation is that this should also take account of accreditation by a number of years of experience in the industry. And I gave the example a short while ago of Anthony N. Sabga who has primary school education and has no business qualification but he was one of the greatest businessmen this country has ever seen.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** Yes, thank you.

**Madam Chairman:** Sen. Richards has something to say, followed by Sen. Mark. Is there anyone else who wishes to speak? Sen. Hosein, this will be your last time because you have made the presentation. Sen. Hosein, Sen. Mark—Sen. Richards, Sen. Mark, Sen. Hosein, AG.

**Sen. Richards:** Thank you, Madam Chairman. In clause 30—and I know the AG's amendments are in the chapeau on paragraph (a) and Sen. Mark's in subsection 2(e), but I have a concern about 30(2)(d), and is it implied by a person's experience in accounting, if that is a particular qualification level? And also, how many years' experience although it is being nominated by the Minister? I find it quite open.

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Madam Chair, this is a committee that is dealing with licensing and there ought to be some independence, and if the Attorney General's argument is that you do not want to bring in brokers because it would be an incestuous kind of arrangement and there would not be co-regulation, what this is telling us is that there are going to be four persons in a seven-man committee and four of them would be coming from the ruling party, whichever ruling party is in power. In Tobago, we have a ruling party in power and in Trinidad, we have a ruling party. So at the end of the day, this is going to be politically controlled, Madam Chair, by the ruling party, whichever party is in power. And what I am saying, Madam

Chair, this does not give us comfort as it relates to the independence of this licensing authority or Licensing Committee, and I am asking the Attorney General to pay attention to the lopsided nature of this committee; it is unfair.

**Madam Chairman:** Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam Chairman. Madam Chairman, I would like the Attorney General to consider that— I understand the point where the AG is making in terms of having some level of Government representation in the Licensing Committee. AG, is it not comforting that the Minister can appoint someone in terms of the accounting business or finance background and also, they will be a representative of the THA? So the Executive does have two persons of their choice in the committee and now we are going to increase the persons in the real estate business from two to four, why not at least give two of those persons in the association some leverage in terms of appointing at least two of the persons in the real estate business?

**Madam Chairman:** Sen. Richards, please, one final point.

**Sen. Richards:** Thank you. Just clarification from the hon. Attorney General through you, Madam Chair— and is “The President”, as cited in 30(2), Her Excellency the President or His Excellency the President, should that be the case in the future, or is it to be construed as the Cabinet as we have sometimes seen in the past in terms of interpretation?

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** I sincerely apologize, I was momentarily distracted; would you mind repeating that with the Chair’s leave?

**Madam Chairman:** Sen. Richards is asking whether at 30(3) if that President is the—

**Sen. Richards:** Clause 30(2).

**Madam Chairman:** 30(2), is if that President is Cabinet or if the President—yeah.

**Mr. Al-Rawi:** In own discretion?

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** Okay. Understood. Yeah.

**Madam Chairman:** Attorney General—

**Mr. Al-Rawi:** May I?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** Yes, thank you. May I thank hon. Senators for their submissions and I think that we are all on the same page. So even though we are not on my amendments, they factor into our discussion and it resonates with some submissions that Sen. Hosein just made. Right? So we have listened during the debate that we needed more industry involvement, which is why I am going to propose—when Madam Chair allows me to— amendments to increase the number of persons from the industry to four. If we look to—I should perhaps go in the order that—sometimes it is hard to answer all the submissions when they are taken in a group but permit me for a moment. Sen. Richards asked how many years' experience was required for accounting, et cetera, and that was with respect to subparagraph (d):

“a person with experience in accounting, business or finance, nominated by...”

We have taken that formula without reference to years' experience because sometimes if you specify you want an accountant, a lawyer, a something, you end up with the board not being—with the entity not being properly comprised. In other words then, it falls out of constitution because one person is lost. So what we did there was to use the pooling: accounting, finance, business.

**Sen. Richards:** AG, is there a particular qualification level?

**Mr. Al-Rawi:** Yeah. So we specifically did not put a qualification level because, again, in this industry we were looking at the fact that there are just savvies. I would call it the “Anthony N. Sabga version”, no qualifications but beyond doubt, well-qualified. So we had not put a qualification level for that point. Secondly, Sen. Mark raised concerns about the independence and political control and ruling party, et cetera, and referenced the THA. That, from a principal point of view, I understand where the hon. Senator is coming from. Obviously— and Sen. Dillon-Remy would know this— the reason why we have the THA in is that under the Fifth Schedule to the THA Act, they are responsible for land in Tobago, so we had to include the THA separate from Trinidad.

The point taken, however, on independence, I would just like to underwrite the fact that is why we have the JLSC included. And to answer Sen. Richards specifically, “President” does mean Cabinet. The only time that President means President in discretion, in own discretion, is where you specifically say, “the President in his own discretion shall”. So—did I get it wrong, Sen. Richards, as to what you asked?

**Sen. Richards:** You said the Cabinet.

**Mr. Al-Rawi:** Yes. President only means President in own discretion when the law specifically says, “President in own discretion”. The other formula is, “President after consultation with Prime Minister and/or Leader of the Opposition, or President”. In the last case, President means Cabinet and that is the manner in which it is interpreted. However, Sen. Hosein made a very commendable suggestion which I would like to grab on to. Madam Chair, it would not be odious to include two persons on the recommendation of the association and I think that there is merit in Sen. Hosein’s submission, and therefore, I would want, when we get to the amendments that I have propose to include, in the four persons that I am



proposing, two persons who would be nominated by the association so that we can have some balance. It would take care of Sen. Mark's observation as to preponderance of personalities. Whilst I hear this argument coming from the Opposition, as a Government Member and as a person who served in Opposition, I never had a problem with a Cabinet appointing anybody because a Cabinet was appointed to run the country, which is why I have never made that observation when I was in Opposition of pouring scorn on a Cabinet making appointments; that is part of the Executive's function but—

**Madam Chairman:** So I think we are at a position now where I can put the amendment as proposed by Sen. Mark and then we will treat with the amendments circulated by the Attorney General.

**Sen. Mark:** Well, Madam Chair, in light of what the Attorney General has indicated, I think he is going to make an amendment when it comes to his—

**Madam Chairman:** You are going to withdraw yours?

**Sen. Mark:** I will withdraw mine.

**Madam Chairman:** Thank you very much. So your amendment is withdrawn.

*Amendment, [Sen. W. Mark] by leave, withdrawn.*

**Madam Chairman:** Hon. Senators—Sen. Vieira.

**Sen. Vieira:** Thank you, Chair. Hon. Attorney General—

**Madam Chairman:** Sen. Vieira, can it be brief, please? Can it be brief because I am about to put the Attorney General's amendments? Yes, go ahead.

**Sen. Vieira:** Well, it was simply to indicate to the Attorney General—well, I think that there is an appetite that 30(2) should be “the President acting in her sole discretion” as opposed to “the President acting on the advice of Cabinet”.

**Mr. Al-Rawi:** And, Madam Chair, if I could just address that quickly, because it is co-regulator, the President acting in sole discretion can be very cumbersome

from an Executive's functionality: planning, environmental management, other aspects. There has to be coordination of Government interest in co-regulation and remember that interest is why a Government is elected. A Government has to have the capacity to run the programme of development and supervision that it wants, otherwise it may be frustrated in that regard. I respectfully believe that the balance is there, the Judicial and Legal Service Commission is entirely independent. If we add two people from the association that gives the association's point. So therefore, you are really looking at THA, which under law is the THA, and they handle Tobago matters, and now two people by the Cabinet.

**Madam Chairman:** Sen. Hosein, you wanted to say something, just very briefly.

**Sen. S. Hosein:** Yeah. Just to respond to Sen. Vieira also, if you look at the way in which it is drafted the President is just making a formal appointment, it is not that the President is exercising a discretion. So I think that is important for the record, it is just a formal appointment is being made.

**Madam Chairman:** I just want to remind Members, I do not think anyone can say that I do not allow for free discussions when we are at committee stage, but for those of you who are interested, there are 83 clauses in this Bill, we are at clause 30. I just put that for my record. Sen. Vieira.

**Sen. Vieira:** Thank you, Chair, and I very much appreciate. I understand what the AG is saying and I would just also like to point out that 32(2) makes clear that:

“In the performance of its functions, the Committee shall not be subject to the control or direction of any person.”

And I think that is an important safeguard, because whoever appoints you, your loyalty is not to that person, your loyalty is for the organization you serve.

**Madam Chairman:** So, Attorney General, you have some surgery to do to your amendment?

**Mr. Al-Rawi:** Yes, please, Madam Chair. I was just putting it into the speak of clause 30.

**Madam Chairman:** Sure.

**Mr. Al-Rawi:** Madam Chair, if you look at clause 30 as circulated by me, if I could adopt the following surgery to it.

**Madam Chairman:** Sure.

**Mr. Al-Rawi:** So in subsection (2), (a) stays fine up until the semicolon, so I am asking you to delete the word “and”.

**Madam Chairman:** Right.

**Mr. Al-Rawi:** (b) would be—so, Madam Chairman, we are deleting the word “and” at the end of subparagraph (a). In (b) we are saying in paragraph (e) delete the word “and”. So instead of “two” delete the word “and”, and then delete the words “and substitute the word”, right down to “four”.

**Madam Chairman:** Okay. So delete the word “two”—

**Mr. Al-Rawi:** And replace it with “and”.

**Madam Chairman:** Replace it with “and” and delete “and substitute the word “four”.

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

**Madam Chairman:** All those words, right?

**Mr. Al-Rawi:** Yes, please. Then we are going to say (c), we are going to say “insert paragraph (f)” — “insert a new paragraph (f)”, and it would read as follows:

“two persons each having at least five years’ experience in real estate business nominated by the association;”

And we will then say, in a new paragraph after that, “renumber (f) as (g).” So just to be clear, Madam President, the circulated amendments will look like this:

(a) in the chapeau, delete the word “seven” and substitute the word

“nine”; and

(b)—we are going to say—in paragraph (e), delete the word “and”.

**Madam Chairman:** Delete the word “two” and substitute—

**Mr. Al-Rawi:** Delete the word “two” and substitute it with the word “and”, and then delete those other words “and substitute the word “four”.

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** And then we are going to have (c), “insert new paragraph (f)”, and the wording for paragraph (f) will be:

“two persons each having at least five years’ experience in real estate business nominated by the association;”

And then (d), paragraph (d), “will be renumber (f) as (g).” Right?

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** Hold on, I just want to make sure that we have caught “four” now, so we are two short of four because we are inserting a new—so we got (a), delete the word “seven” in the chapeau, that is fine. In paragraph (e) we are going to say, “delete the word and”, then therefore that reads, “two persons each having at least five years’ experience and nominated by the Minister”. And then the “and” moves, and then we have a new paragraph (f) which says:

“two persons each having five years’ experience in real estate business nominated by the association;”

That takes us to four, and then (f) returns as (g), so we are fine.

**Madam Chairman:** Okay. Well, let us hope I am as I put it now. Hon. Senators, the question is that clause 30 be amended as circulated by the Attorney General and further amended as follows, at:

- (a) in subsection (2)(a), delete the word “and”;
- (b) delete the word “two” substitute with the word “and”, and delete the

following words, “and substitute the word “four”;

- (c) insert a new paragraph (f) to read as follows, “two persons each having at least five years’ experience in real estate business nominated by the association”; and
- (d) renumber (f) as (g).

**Hon. Senator:** Delete “and” after that?

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** Yes, we did.

**Madam Chairman:** It came between (c) and (d).

**Mr. Al-Rawi:** Great, much obliged.

*Question put and agreed to.*

*Clause 30, as amended, ordered to stand part of the Bill.*

*Clauses 31 to 40 ordered to stand part of the Bill.*

*Clause 41.*

*Question proposed:* That clause 41 stand part of the Bill.

**Madam Chairman:** Sen. Mark, you have circulated an amendment?

**Sen. Mark:** Madam Chair, I did circulate an amendment but it was not typed in the version that you have there.

**Madam Chairman:** We have it, clause 41, behind.

**Sen. Mark:** No. No. No. Clause 40, and you had gone past 40, you went very fast.

**Madam Chairman:** There is nothing very fast about how this process is going, absolutely nothing—

**Sen. Mark:** No, no, but what I am saying is that—

**Madam Chairman:**—but I will say—no, no. Well, if it is a new clause it comes after, but I would appreciate getting it, the copy of that amendment. Sen. Mark,

you have an amendment to it, let us deal with the present. You have an amendment circulated for clause 41, can you—Sen. Hosein.

**Sen. S. Hosein:** Thank you very much, Madam Chairman. This amendment has to do with clause 41(4) just the terms of the time limit in which the person has to respond where an objection is filed to his application and we are just asking, Madam Chairman, that the time starts to run for a person to respond to the objection from the date of service of the notice, rather than just leave it vague as the date of notice.

**Madam Chairman:** Anyone else on clause 41, the proposed amendment? Attorney General.

**Mr. Al-Rawi:** So, Madam Chair, the first response to this is, this is the formula that we have used from the Companies Act, the Non-Profit Organisations Act, and many other pieces of law. The issue of rule of service, date of notice, whether you are using the constructive notice or actual notice, rules at law, or postal service methodologies, et cetera, that always become something that is in issue. It is always open for one to say that, “Look, I do not have adequate notice and therefore inform of that position”. So we did not say service of notice because I do not know if there is actually a method of service that we can certify at any one point in time without then going down to the prescriptive barrel of that, postal notice, 24 hours after email notice. The way we would normally do it in contract is by far more particularized than it is in legislation.

So we took the precedent of legislation that we have, it has worked itself out, if you look at the Companies Act, et cetera, where notices come about, because the legislative structure is a little bit different from the particulars that we give in a contract structure. So I understand your concern; it is a genuine concern, but we have gone with the formula that we are accustomed to in law.

*Question put and agreed to.*

*Clause 41 ordered to stand part of the Bill.*

*Clauses 42 to 53 ordered to stand part of the Bill.*

**5.20 p.m.**

*Clause 54.*

*Question proposed:* That clause 54 stand part of the Bill.

In subsection (1)—

- (a) in the *chapeau*, delete the word “seven” and substitute the word “nine”; and
- (b) in paragraph (c), delete the word “two” and substitute the word “four”.

**Madam Chairman:** There is an amendment circulated by Sen. Mark. There is an amendment circulated by the Attorney General.

**Sen. S. Hosein:** Madam Chairman, this is almost identical to the amendment that we did to the Licensing Committee in terms of having a more representative composition of the Disciplinary Committee where the association can nominate two other persons. I do not know if the Attorney General would also agree with the same formula that we used previously.

**Mr. Al-Rawi:** Yes, Madam Chair, the same formula for the same reasons advanced and accepted and agreed.

**Madam Chairman:** So that Sen. Hosein, you will withdraw yours—Sen. Mark, you will withdraw yours?

**Sen. Mark:** Yes.

*Amendment, [Sen. W. Mark] withdrawn.*

**Madam Chairman:** Attorney General, you have some surgery to do to yours?

**Mr. Al-Rawi:** Yes, Madam Chair, should it please you. So, here we go. So in 54

as circulated, in the chapeau, (a), stays the same. In (b), we are going to say in paragraph (c). Take off the word “two” and substitute it with the word—

Madam Chair, if you would just strike the word “two” as in the circulated draft in paragraph (b) and put the word “and” instead, and delete the words “and substitute the word ‘four’”. So that is paragraph (b). Paragraph (b) would now read, in paragraph (c), delete the word “and;”.

Delete those words appearing—

“and substitute the word “four”. Just delete those words, if it pleases you.

We will now say, in paragraph (c)—

A new (c) in the circulated amendments— we are going to say, insert new paragraph (d).

And the wording for paragraph (d) would be as follows:

“two persons with at least five years’ experience in real estate business nominated by the Association.”

Should it please you?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** Could I insert the word “and”, so you may be sure?

**Madam Chairman:** You want to just go it over, Attorney General?

**Mr. Al-Rawi:** Yes, please. So, Madam Chair, that which is circulated as amendments should read as follows:

In subsection (1)(a)

That stays the same.

in the chapeau delete the “seven” and substitute the word “nine”.

Scratch the word “and”. Paragraph (b) would read, in paragraph (c) delete the word “and”;

We should put in the word “and” after that. And then now a new paragraph



(c) which reads, insert new paragraph (d) and that reads:

“two persons with at least five years’ experience in real estate business nominated by the Association.”

Madam Chair, we have one more thing to do, because I am just looking at the Bill itself. We would have to say in (e), forgive me. We would have to say (d)—we are going to have to say, renumber paragraph (d) as (e)—“e” as in “echo”. So the “and” really comes after paragraph (c). Okay? Semicolon after “Association; and”

**Madam Chairman:** Okay, so I think I have it now. Hon. Senators—Sen. Vieira?

**Sen. Vieira:** I had just a question. I notice there is no indemnification of committee members and I am wondering whether that was an oversight?

**Mr. Al-Rawi:** You mean an indemnification for them acting for bona fide purposes, et cetera?

**Sen. Vieira:** That they will not—because, you know, very often when people go for judicial review or they sue, they bring the actions against them personally, and they are not necessarily—so whether that is something you would want to consider.

**Mr. Al-Rawi:** I would not want to introduce that concept just yet because there are a whole other bunch of laws, if I could be as positioned as that to say, that I would have to treat with. All of the other committees that we have established in recent Bills, we have not included an indemnification provision for them. So you are asking whether an indemnification clause for the committee should be included. I would assume also therefore for the Licensing Committee, right, to say that they will not be subjected to—

**Sen. Vieira:** Personal liability.

**Mr. Al-Rawi:**—to personal liability.

Sen. Vieira, may I respectfully ask for room to think about that. We have a miscellaneous provisions coming up next, but this is a matter of policy that I would have to get right in the exculpation of liability and indemnity, because I can do it in one of two ways that I am not settled on yet. That no action shall be taken for them acting in good faith or not in bad faith, is one version of indemnification, as opposed to indemnification in their own personal right. So may I do that? Because you can also meet an indemnification by the committee agreeing to indemnify its members by resolution. So it can be done administratively as well. So I need to be certain on which one of those three versions one should accept in legislation.

**Sen. Vieira:** I am fine with that. It is just when people are called upon to serve in these capacities, they want to be assured that they would not have personal liability unless they look for it.

**Mr. Al-Rawi:** Much obliged.

**Madam Chairman:** Hon. Senators, the question is that clause 54 be amended as circulated by the Attorney General and further amended as follows, in:

- (a) delete the word “and”.
- (b) delete the word “two” and substitute the word “and”, and then delete “and substitute the word “four”
- (c) insert new paragraph (d) to read as follows: two persons with at least five years’ experience in real estate business nominated by the Association; and
- (d) renumber paragraph (d) as (e)

*Question put and agreed to.*

*Clause 54, as amended, ordered to stand part of the Bill.*

*Clauses 55 and 56 ordered to stand part of the Bill. Clause 57.*

*Question proposed:* That clause 57 stand part of the Bill.

**Sen. Mark:** Madam Chair, I really would like to—I was trying to get clarification on a matter. Madam Chair—

**Madam Chairman:** Sen. Mark, can you please speak up. I cannot hear you.

**Sen. Mark:** I am seeking your indulgence to reopen 56. I just need to get a little clarification from the hon. Attorney General.

**Madam Chairman:** Well, you can ask for the clarification. I am not going to re-put it to the committee.

**Sen. Mark:** Okay.

**Madam Chairman:** Just very briefly ask the Attorney General for clarification.

**Sen. Mark:** Attorney General, who is going to— again, where are these people going to be finding money from to pay for the staffing of the Disciplinary Committee, that is the association?

**Mr. Al-Rawi:** From the association's dues which will underwrite its purpose. Just like the Law Association, engineers, dentists, everybody, except the land surveyors association.

**Sen. Mark:** Yes, but they are not in charge. They are not in charge of this committee. I mean to say, we are piling up all “kinda people”, except with two that you just agreed to.

**Mr. Al-Rawi:** They are receiving the benefit of the committee so they do not need to be in charge.

**Sen. Mark:** So why must I be receiving the benefit of the committee and I am paying for it? I must be in charge.

**Mr. Al-Rawi:** No, the public—

**Sen. Mark:** Anyway, Madam Chair, I withdraw. I am not going further with that.

**Madam Chairman:** Thank you very much. So we now deal with your

amendment to clause 57, Sen. Mark. Would you like Sen. Hosein? Sen. Hosein?

**Sen. S. Hosein:** Thank you very much, Madam Chair. This amendment is an amendment to clause 57(2). We saw a disparity, Madam Chair, through you, to the Attorney General, that the members of the Disciplinary Committee will be paid, the members of the Licensing Committee will be paid, but not the members of the association. So we were wondering, just for equality of treatment, whether or not the members of the association could be remunerated for their services because they will be doing quite a lot of work in terms of the management of this particular piece of law?

**Mr. Al-Rawi:** Sure. So they are not in similar circumstances. The Disciplinary Committee and the Licensing Committee involve external entities, the JLSC appointees. So they are coming to do quasi-judicial functions which have significant work and liability inside of the arrangements. For those reasons it was appropriate to remunerate them because they are outsiders in part as well.

The association itself is meant to be a volunteer association for the work that they do. There is no honorarium that is paid to the Law Association as far as I am aware, the Dental Council, the Medical Association, et cetera. So none of the self-regulatory bodies exact remuneration for themselves. In fact, I believe it is in associations of another type, I will not call them here today, that that kind of difficulty comes about because of the remuneration factors. So we wanted to stay clear of that. Just like the Law Association, you volunteer to be a member of the Law Association and you do it for free, because you are really giving service to the association.

*Question put and agreed to.*

*Clause 57 ordered to stand part of the Bill.*

*Clauses 58 to 62.*

*Question proposed:* Clauses 58 to 62 stand part of the Bill.

**Sen. Mark:** Madam Chair, may I through you, advise the Attorney General, seeing that we have increased the Disciplinary Committee by two, from seven to nine, I would respectfully suggest that the quorum be increased from three to five, so you have a proper balance.

**Madam Chairman:** May I ask what clause you are dealing with?

**Sen. Mark:** I am dealing with clause 60, Madam Chair.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** Madam Chair, I had not spotted that. So I think that that is very prudent. May I—

**Madam Chairman:** Just a second.

*Question put and agreed to.*

*Clauses 58 and 59 ordered to stand part of the Bill.*

*Clause 60.*

*Question proposed:* That clause 60 stand part of the Bill.

**Madam Chairman:** Attorney General, you have a form of words?

**Mr. Al-Rawi:** Yes, Madam Chair, I wish to thank Sen. Mark for observing need for amendment at clause 60. I see a look of consternation above Sen. Vieira's mask, however.

**Madam Chairman:** No, hold on. Attorney General, are you proposing an amendment before we deal with Sen. Vieira?

**Mr. Al-Rawi:** Well, I do not want to be guilty of a knee-jerk amendment if there is a voice on the table.

**Sen. Vieira:** Chair, if we are talking about a quorum of a meeting where it is an administrative-type thing, five is fine, but if the amendment is "five" it means that every disciplinary hearing must have at least five members. That could sometimes

be difficult getting a quorum. Three is usually a norm at least in disciplinary committees that I am involved with where they would have panels of three. So I am just saying five is a high number.

**Mr. Al-Rawi:** Hence the benefit of discussion, Madam Chair. Thank you for facilitating it. Sen. Vieira just reminded me of panels. If we are going to have a work flow/rate flow like the Law Association, we have a Panel A, a Panel B, et cetera, you may very well be finding the committee sitting in smaller numbers and therefore, we may unwittingly throw the baby out with the bathwater. I do understand what Sen. Mark was saying though.

**Sen. Mark:** In your regulations governing this piece of legislation, we can make provision for panels, and we can house there that proposal. But for the legislation we are saying if the Disciplinary Committee is to meet, not necessarily to hear a matter, but they may meet as a body, I am saying that if you have a membership of nine, we should go with five. But I agree with you and Sen. Vieira. In our regulations, when you are setting up your panels, you can say a panel will be made up of three members for hearing purposes. That is what I would agree to.

**Mr. Al-Rawi:** Madam Chair, I thank Sen. Mark for that observation but unfortunately, the reverse is really the case. Once the law says that the Disciplinary Committee is at five, we cannot derogate from the law by saying the committee may sit at three. So what we can do instead is in the regulations say, you can move up because there is nothing to stop you from going in the panel arrangements to say four—it usually goes for odd numbers. But I think that because of the observation that Sen. Vieira raised just now—the mask allows the consternation to be a little more defined, but I thank Sen. Vieira for expressing that. So may I retreat from a recommendation to amend clause 60, most respectfully.

*Question put and agreed to.*

*Clause 60 ordered to stand part of the Bill.*

*Clauses 61 to 77 ordered to stand part of the Bill.*

**Sen. Mark:** May I ask the Attorney General because of—

**Madam Chairman:** Which clause, Sen. Mark, please?

**Sen. Mark:** I am dealing with clause 80.

**Madam Chairman:** So let us say 78 and 79.

**Sen. Mark:** No, no, no, no. Just now, Madam. You are correct, sorry.

*Clauses 78 and 79 ordered to stand part of the Bill.*

*Clause 80.*

*Question proposed:* That clause 80 stand part of the Bill.

**Sen. Mark:** Madam Chair, through the Chair, to the hon. Attorney General. Madam Chair, we are talking about the formulation of a code of ethics and we are also talking about a lot of matters that would have to be addressed through the regulations. And because of the nature of this Bill and its provisions or clauses, I would like to ask the Attorney General to consider bringing these regulations for debate in this Parliament particularly when it comes to the code of ethics.

**Madam Chairman:** You are asking for?

**Sen. Mark:** I would like him to consider—

**Madam Chairman:** To change negative to affirmative?

**Sen. Mark:** Yes, to affirmative.

**Mr. Al-Rawi:** So, Madam Chair, I thought Sen. Mark would notice that this is one of these occasions where we subjected the order to negative resolution, because we believe that the Parliament should be intimately aware of this because it is a co-regulatory approach. So for that reason, we did not do the normal thing which is to say just an order and not have the inspection of Parliament. But because of the

difficulty in the manner in which affirmative resolution works, it is an extremely cumbersome thing when you are trying to amend that which you have brought. It is by far better instead to bring a negative resolution and then cause surgery to it. So we respectfully believe that the step up from order into negative resolution is the way to treat with this issue.

*Question put and agreed to.*

*Clause 80 ordered to stand part of the Bill.*

*Clauses 81 to 83 ordered to stand part of the Bill.*

**Sen. Mark:** Before we go to the Schedule—are you going there after?

**Madam Chairman:** I am.

**Sen. Mark:** I have been advised that my proposal, via an amendment, is not a new clause. It is really an amendment that would create a subclause under clause 40. So there is where I would need your guidance. Remember you had indicated, based on my submission, that being a new clause you would take it at the end. But I have now been advised, it is not a new clause, it is just a subclause to—

**Madam Chairman:** Sen. Mark, do you have the amendment in writing?

**Sen. Mark:** I have it right here.

*[Sen. Mark points to head]*

**Madam Chairman:** No, Sen. Mark.

**Sen. Mark:** No, what I am saying, Ma'am—

**Madam Chairman:** I know, but Sen. Mark we are literally—we started the committee stage at—I have it written down. We have spent—at this stage, without a written amendment on your part, I do not see how I can revisit the clause.

**Sen. Mark:** But all I am saying is that I submitted a written position but it was just left out inadvertently. It is not to say I did not do it. I did it.

**Mr. Al-Rawi:** *[Inaudible]*



**Sen. Mark:** You know I am a democrat. “Yuh mad or something.” I am famous for being a democrat.

**Madam Chairman:** Sen. Mark, I am going to deal with the Schedules, and if I am finished with the Schedules and you do not have a written amendment to submit to me, then I am afraid we are finished.

**Sen. Mark:** Can I have a piece—can I have that book so I can write quickly? [Laughter] Sir, can I have that quickly?

**Madam Chairman:** I will give it to you, Sen. Mark. Here you go. So, we will now treat with the Schedules.

*Schedule 1 ordered to stand part of the Bill.*

*Schedule 2.*

*Question proposed:* That Schedule 2 stand part of the Bill.

**Sen. Vieira:** Should the Data Protection Act also be included?

**Mr. Al-Rawi:** May I?

**Madam Chairman:** Yes, Attorney General.

**Mr. Al-Rawi:** Would love to, but it has a lot of unconstitutionality in it that needs surgery. That is why the Data Protection Act has not been proclaimed. If you recall the media association had violent objections to the Data Protection Act which I shared. And secondly, the Data Protection Act is going to have to be massaged a little bit further as we are doing the electronic transactions reformation of Trinidad and Tobago. This Government is going completely e-oriented. So we have established the MOU with the Government of Estonia at the AG’s office and the Ministry of Works and Transport will be light years ahead, intellectual property. So that is why we have not had amendments to the Data Protection Act yet, because it is now archaic in light of electronic management.

So I do agree. The current Act has some terrible unconstitutional issues

inside of it. That is why the last Government only partially proclaimed it and we certainly have not. I intend to cause the surgery to that after we get over the election and are back into gear in government we will amend those provisions with the electronic arrangements.

*Question put and agreed to.*

*Schedule 2 ordered to stand part of the Bill.*

*Schedule 3 ordered to stand part of the Bill.*

*Clause 40 recommitted.*

*Question again proposed: That clause 40 stand part of the Bill.*

**Madam Chairman:** So because the milk of human kindness is flowing right now, I will just read to Members what Sen. Mark is proposing, Attorney General. Sen. Mark, it is going to be a very brief, very brief presentation on this. Clause 40, Sen. Mark is proposing add a new subclause (2), 40(2) to read as follows:

All developers are required to be licensed under this Act.

**Sen. Mark:** The hon. Attorney General indicated that—

**Madam Chairman:** Sen. Thompson-Ahye.

**Sen. Thompson-Ahye:** I am not following.

**Madam Chairman:** So, Sen. Mark is asking that a new 40(2) be inserted to read as follows and then everything will be renumbered accordingly.

**Sen. Thompson-Ahye:** So while we are on 40(1)—

**Madam Chairman:** No, we are not. We are on 40(2). We are on Sen. Mark's proposed amendment.

**Sen. Thompson-Ahye:** Can I just say one thing though about 40(1) that I would like—

**Madam Chairman:** Sure.

**Sen. Thompson-Ahye:** Yes, please. That the American spelling be changed to

the English spelling of “licensed”?

**Madam Chairman:** That is for the Attorney General to move.

**Sen. Thompson-Ahye:** An “s” please. You have “licenced” with a “c”, but it is “licensed”.

**Mr. Al-Rawi:** So, Madam Chair, the CPC’s Department is saying that they will pick that up in the proofreading and they will change it to the correct spelling. Thank you so much.

**Sen. Thompson-Ahye:** Sure.

**Madam Chairman:** So, Attorney General, 40(2):

All developers are required to be licensed—

**Mr. Al-Rawi:** I am sorry, Madam Chair, 40(2), 42? I am not following.

**Madam Chairman:** 40 subclause (2) to read as follows:

All developers are required to be licensed under this Act.

**Mr. Al-Rawi:** And then, is there the proposal that everything else is renumbered accordingly?

**Madam Chairman:** Yes.

**Sen. Mark:** Well, that would be it, Madam Chair. I did not put that but that would follow logically.

**Madam Chairman:** Sen. Mark, can you—

**Sen. Mark:** Madam Chair, I am submitting to the hon. Attorney General that since brokers as well as sales associates or what they call “real estate agents” are to be licensed in this legislation, because they are engaged in that kind of exercise, here we have developers developing land, building houses and selling houses and they are not being asked to be licensed. I believe that it is unfair and we need to bring some regulation to developers. That is why I proposed that they be also licensed as any other category, broker as well as sales agents/real estate agents. So

it is as simple and as straightforward as that.

**Mr. Al-Rawi:** Sure. I thank the hon. Senator for his recommendation and I understand the heart of what he is trying to drive at. Unfortunately, it is not simple. To license developers under the Real Estate Agents Act is to clothe them in the business of real estate. The business of real estate is set out in the Bill under clause 4 and clause 5. Clause 4 is the disapplication clause. Clause 5 is where we set out what a real estate agent does and then in the second part of clause 5, we say what is not included in that. People acting under powers of attorney, as receivers, as liquidators, et cetera.

Because developers, if they are to be licensed would have to have terms and conditions of licence, standards of licence, regulatory supervision of licences, disciplinary committees for that type and subset of position, a licensing committee that treats with that. We are actually looking at a very involved subset for developers.

Furthermore, to interfere with the right to hold property under the Constitution under section 4, constitutionally, we would have a huge problem to tell people who owns property, before you can develop, before you can treat with your property, you need to be licensed. That would be a massive three-fifths right issue that we just cannot include into this legislation.

So (a), because of constitutional reasons in the intrusion into to section 4 rights; (b), because of the need for terms and conditions with respect to licensing, as it relates to what you are going to license, what are the parameters of the licence; (c), because of the need to institute a committee that has the skill set to do that; and (d), because of the need for consultation on such a mammoth recommendation. That is why we— Sen. Rambharat, dealt with it— said that we would take that in a separate law.

Because we do not only want to have licensing of developers. We must factor the planning and facilitation development across complex development and simple development in the devolved aspect. It ties into the property tax regime and land tribunals. It ties into the Registration of Titles to Land Act. It also ties into the concept of advertising for development. So that is a very complicated issue to describe on the floor on the recommendation of the hon. Senator.

**Sen. Mark:** Madam Chair, I will not be too long. All I would say is simply this: I have looked at three different pieces of legislation and the definition for “developer” is very clear and simple. It focuses on land and the selling of individual lots. It had nothing to do with the building of houses and the sale of those houses. Here it is, Madam Chair, we are moving away from that concept and we have expanded it. No property rights were violated, no three-fifths was being called upon. But here it is, Madam Chair, we have a serious matter where we have redefined developer—redefined developer, but we are saying we cannot go further in terms of licensing. I disagree, Madam Chair.

**Madam Chairman:** So hon. Senators, I shall now propose the amendment. The question is that clause 40 be amended as proposed by Sen. Mark as follows:

Add new subclause 40(2) to read as follows:

All developers are required to be licensed under this Act and renumber all other subclauses accordingly.

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

*Question put and agreed to.*

*Clause 40 again ordered to stand part of the Bill.*

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

*Senate resumed.*

**5.55 p.m.**

**Madam President:** Attorney General.

**Hon. F. Al-Rawi:** Madam President, I wish to report that the Bill entitled the Real Estate Agents Bill, 2020 was considered in committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee's report.

*Question put and agreed to.*

*Bill reported, with amendment, read the third time and passed.*

### **ADJOURNMENT**

**Madam President:** Leader of Government Business.

**The Minister of Energy and Energy Affairs (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that this Senate do now adjourn to Tuesday the 26<sup>th</sup> May, 2020, at 1.30 p.m. That will be Private Members' Day and I am informed by the Leader of the Opposition Bench that we will be continuing debate on Motion No. 1 on Private Members' Business, that is the Motion on crime, where the Senate adjourned that debate on Tuesday, February 04, 2020.

**Madam President:** Hon. Senators, before I put the question I now invite Senators to bring greetings on the occasion of Eid which is going to be commemorated on Sunday May the 24<sup>th</sup>, 2020. Leader of Government Business.

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

### **Eid-ul-Fitr Greetings**

**The Minister of Energy and Energy Affairs (Sen. The Hon. Franklin Khan):** Thank you very much, Mr. Vice-President. On this side we are privileged to have a Hajji in our midst in the person of Sen. The Hon. Hajji Kazim Hosein. He would normally have been giving this address but he had to go to San Fernando to break

his fast. So, as the only remaining Khan in the House, I could not obviously assign this task to anyone else.

So, Mr. Vice-President, I thank you for granting us the opportunity to bring Eid-ul-Fitr greetings in this honourable House to the Islamic community of our beloved nation. Eid-ul-Fitr marks the joyous end to the Holy Month of Ramadan, a month in which we deepen our understanding of Islam with spiritual reflection and renewal, increased devotion and worship, recommitment to the values of gratitude, charity and compassion.

This year, unlike previous years, Mr. Vice-President, was a family Ramadan with a difference. Due to public health and precautionary measures implemented across the world to treat the current COVID-19 pandemic, Muslims near and far had to alter the way that they would traditionally perform certain rituals during the Holy Month. Though they were unable to congregate at their respective masjids for *tarawih* prayers and share in the daily breaking of fast, *iftar*, with our brothers and sisters in Islam, we remain firm believers that Allah is all knowing as the Qur'an in chapter 94:6 reminds us:

“Verily, with every hardship comes ease”

Mr. Vice-President, we truly believe that this sacred month of Ramadan was a test for each and every Muslim. A test by Almighty Allah to draw closer not only to him, but our loved ones, in deeper reflection of the holy Qur'an. During this month while being physically separated from the religious communities, Muslims were presented with a greater opportunity, one where they could focus on repairing and building even stronger bonds with their families, mothers, fathers, brothers, sisters, husbands, wives and children. With most family members at home, Muslims were able to share this period of deeper prayer and fasting together, and it further encouraged children to join in the daily rituals which are

prescribed in the *Holy Qur'an*.

Mr. Vice-President, as a nation we have witnessed the devastating impact of this virus—continues to have across the world, leaving families without basic necessities to survive and even leading loss of many lives. But through it all, Trinidadians and Tobagonians have learnt valuable lessons in gratitude, comradery, charity and having faith in the Almighty at all times.

Madam President, Eid-ul-Fitr serves a three-fold purpose:

- 1 It places all Muslims the responsibility to remember Almighty Allah and offer him thanks;
- 2 It affords us the opportunity for spiritual reflection, to understand the strengths of our will, and to recognize the weaknesses of our character which would have reveal themselves during the holy month; and
- 3 It is also a special day for with us to share with our less fortunate brothers and sisters.

In preparation for Eid-ul-Fitr I encourage our brothers and sisters in Islam to reflect upon the lessons learned during this month-long fast. Show gratitude and compassion to the needy and to those less fortunate in our society. And let us continue to strive; we will implement the lessons learned from Ramadan in our everyday lives.

In conclusion, Mr. Vice-President, on behalf of the Government of Trinidad and Tobago I take this opportunity to wish our Muslim brothers and sisters at home and abroad and the entire national community Eid Mubarak. Here in this House I extend my personal best wishes on this joyous occasion to my colleagues on the Government Bench, to my colleagues on the Opposition Bench, and to my colleagues on the Independent Bench. Eid Mubarak to you and your family.

*[Desk thumping]*



But in closing [*Laughter*] what is uniquely Trinidadian in a scenario like this is our unique ability to celebrate together and respect each other. At Easter, the entire country celebrates showing great respect for Christianity. At Divali the entire country celebrates showing great respect for Hinduism, and today and in the coming days we celebrate Eid-ul-Fitr as a nation with the entire nation showing great respect and love for our Muslim brothers and sisters. May the guidance and blessings of Almighty Allah be with you and your family now and always. [*Desk thumping*]

**Mr. Vice-President:** Sen. Hosein.

**Sen. Saddam Hosein:** Thank you very much, Mr. Vice-President. *Bismillah-ir-Rahmanir-Rahim*. I begin in the name of Allah the most gracious and the most merciful. Thursday 14 June, 2018 will be one of the most memorable days in my life as I rose in this honourable Senate to bring Eid greetings to Trinidad and Tobago on behalf of the Opposition. At that time I was brought to tears in the Chamber as I was in disbelief that a young man like myself would have been given the opportunity to stand proudly in the Parliament of Trinidad and Tobago to bring greetings on the occasion of Eid. Today, I stand here again as that same proud young man bringing greetings to our nation on this auspicious occasion, however, with the certainty this time that it would be the last, as we as a Senate will celebrate Eid-ul-Fitr together as this the Eleventh Parliament will come to its natural end in September.

I will like to genuinely wish all our colleagues who have served our country and have indicated their exit from public life success and happiness. As we celebrate Eid in this worldwide crisis, the COVID-19 pandemic, it has taught all of us one thing, that things are not the same. During Ramadan the doors of the mosque are normally wide open with Muslim brothers and sisters attending more

regularly, praying extra *sullah*, especially in the night the *tarawih sunnah* and breaking the fast together after at the *iftar*. However, this year we celebrate while the doors of the masjids are closed. But while the masjids, the temples and churches are closed, Mr. Vice-President, the silver lining is that each home now becomes a masjid, each home now becomes a temple, and each home now becomes a church.

Eid-ul-Fitr marks the end of the month of Ramadan, a month of immense sacrifice and fasting. Fasting has been made compulsory for Muslims as it is one the five pillars of Islam. It is the act of refraining from food and drink from dawn to dusk and from prohibited acts. Today more than ever we recognize the importance of our fast. While our bodies become weak as we are met with hunger and thirst, our spirits become enriched. The feeling of hunger and thirst reminds us of those who are without food and drink. It makes us truly understand how one feels to be without food and drink. It reminds us that we must give back to society and assist those who are poor and needy.

Ramadan is the most auspicious month in the Islamic calendar. As we are in the last 10 days of Ramadan, the odd nights in this month are very auspicious for us. While it is not confirmed which is the night of *laylatul qadr*, tonight being an odd night, the 27<sup>th</sup> night of Ramadan, many of us will observe the night of power which is called *laylatul qadr* where we engage in an entire night of prayer. It is mentioned in *Qur'an* that this night is better than 1,000 months. And as we near the month of Ramadan this period of intense sacrifice and prayer, we welcome the celebration of Eid-ul-Fitr.

Muslims throughout Trinidad and Tobago will look out for the sighting of the moon on Saturday, and if the moon is sighted, we usher in the celebration of Eid on Sunday. And as I raise my hand in prayer, I pray that our world can heal

Eid-ul-Fitr  
Sen. Hosein (cont'd)

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after this pandemic, that our country of Trinidad and Tobago can be truly united and heal those wounds of division, that our nation will return to prosperity, and that all of our citizens can enjoy a proper standard of living, that we can be kind to each other and be our brothers' and sisters' keeper. I beg that Almighty Allah shower his choicest blessings upon our country and our citizens, and may he grant us a peaceful, happy and joyous Eid-ul-Fitr. Eid Mubarak on behalf of the Opposition Bench to everyone in this Senate. Thank you very much. [*Desk thumping*]

**Mr. Vice-President:** Sen. Deonarine.

**Sen. Amrita Deonarine:** Thank you, Mr. Vice-President. It is with pleasure that I bring Eid-ul-Fitr greetings on behalf of all Senators of the Independent Bench. In our diverse society it is estimated that about 5 per cent of our population are Muslims. The Muslim religion was introduced to this land through two primary streams. One, Muslims were brought from African ports to this country as enslaved people. The second stream was made up of East Indians brought here as indentured labourers. Despite being a numerically small part of our population, the Muslim community has contributed to every aspect of our national life.

Ramadan is the Holy Month when it is said that the *Qur'an* was given to the holy Prophet Muhammad, may peace be onto him. This month Muslims fast, not to test their will, but to perform acts of faith which bring them closer to God. It is believed that the gates of mercy are open so the charitable deeds which you do in this month of Ramadan multiply your blessings from God.

This year we as a country must be especially grateful to the Muslim community. They have doubled their charitable efforts to feed the hungry, house the homeless, and to do numerous acts of human kindness especially in the rural areas of Trinidad and Tobago as we as a population reeled from the effects, or

continue to reel from the effects of COVID-19.

The end of Ramadan is celebrated on Eid-ul-Fitr. The sacrifices of the month are supposed to prepare our Muslim citizens for a new start in life's journey, one of patience, sympathy and humanity, cleansed from the stresses of the past. It is in this context that on behalf of the Independent Bench I say Eid Mubarak to the Muslim community of Trinidad and Tobago. [*Desk thumping*].

**Mr. Vice-President:** Hon. Members, as we draw closer to the end of Ramadan, I wish to extend my greetings for the celebration of Eid-ul-Fitr. Let us use this auspicious occasion which marks the culmination of prayer and fasting to recommit to values of compassion and gratitude and furthermore, reflect on the tradition of helping our neighbours. Trinidad and Tobago, being a diverse nation, is a great reminder that this nation has been built by people of all backgrounds and faiths. The key contributions of our Muslim brothers and sisters have been pertinent to our growth. I send my best wishes on behalf of the Parliament of Trinidad and Tobago, and the members of staff of the Parliament, to all Muslims and in fact, all of Trinidad and Tobago. Eid Mubarak. [*Desk thumping*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.14 p.m.*