

SENATE

Tuesday, June 09, 2020

The Senate met at 10.00 a.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

PAPERS LAID

1. Report of the Central Bank of Trinidad and Tobago (CBTT) to the High Court Pursuant to Section 44E (7) of the Central Bank Act, Chap. 79:02 for the quarter ended March 31, 2020. [*The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation (UTC) for the year ended December 31, 2019. [*Sen. The Hon. A. West*]
3. Annual Report and Consolidated Financial Statement of Accounts of the Central Bank of Trinidad and Tobago for the financial year ended September 30, 2019. [*Sen. The Hon. A. West*]
4. Sector Wide Approach Programme (SWAP) Loan in the amount of UD\$200 million from the Corporación Andina De Fomento (CAF) to the Government of the Republic of Trinidad and Tobago (GoRTT) for the Development of the Sea and Air Transport and Tourism Infrastructure in Trinidad and Tobago. [*Sen. The Hon. A. West*]

JOINT SELECT COMMITTEE REPORT**Social Services and Public Administration****Challenges re Prisoner Reintegration Services**

(Presentation)

UNREVISED

Sen. Paul Richards: Thank you, Madam President, good morning colleagues. Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Fourteenth Report of the Joint Select Committee on Social Services and Public Administration on an inquiry into the challenges of prisoner re-entry into society and prisoner reintegration services in Trinidad and Tobago.

URGENT QUESTIONS

Heritage Petroleum Ruptured Tank

(Investigations into)

Sen. Taharqa Obika: Thank you, Madam President. To the Minister of Energy and Energy Industries: With respect to the recent spillage arising out of a ruptured Heritage Petroleum tank in Point Fortin, can the Minister state whether an investigation has been launched into this matter?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, as it is public knowledge by now, tank number 27 and 530, on June 7th, ruptured at its base. It was being hydro-tested and the tank was filled with over 500,000 barrels of salt water. The leak was supposed to have been caught in the bond. The bond wall failed, which resulted in some major flooding in the immediate vicinity of salt water and a film of oil.

Obviously, this is a serious and concerning HSE breach and the breach of the asset integrity of the tank. As a result, a full investigation has been launched by Heritage Petroleum Company Limited, an investigation is also launched by the Ministry of Energy and Energy Industries, and the reports of both Heritage Petroleum Company Limited's internal investigation and the Ministry of Energy and Energy Industries' own investigation will also be forwarded to the EMA and

the OSHA. I thank you.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. Can the hon. Minister indicate, with respect to these reports, if they would be forwarded to the Parliament?

Madam President: Minister.

Sen. The Hon. F. Khan: I am not sure if the report would be submitted to the Parliament, but you can feel free to ask any questions that are related to the outcome and the conclusions of the report.

Madam President: Sen. Obika.

Sen. Obika: Madam President, persons in the community are asking if there would be work involved in the clean-up? Can the Minister shed any light on that?

Sen. The Hon. F. Khan: Well—

Madam President: That question— no. That question does not arise. Next question, Sen. Obika.

Heritage Petroleum Adventure Tank Farm Incident

(Preventative Measures Taken)

Sen. Taharqa Obika: To the Minister of Energy and Energy Industries: In light of the Heritage Petroleum, Adventure Tank Farm incident, can the Minister inform the Senate what preventative measures are being taken to ensure that this does not occur with similar assets?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, as again, it is public knowledge, that Petrotrin, the predecessor company of Heritage Petroleum Company Limited did, in fact, have a major challenge of asset integrity. These tanks are extremely old. The tank 27, in question, was being refurbished. All the API testing was done and the weldings were X-rayed and what have you, and

everything seems to have been in compliance with the API standard.

However, hydro-testing is also a preventative measure because hydro-testing, what you do, you fill the tank with water and as you know, water is heavier than oil, so the hydrostatic column of water is heavier than oil. So if the test can stand up to salt water, it obviously would be standing up to oil. Obviously, it breached the salt water, which in a sense is better than if it had breached with oil, so in a sense that is a preventative measure. The major flaw here was the bond wall failing which caused the flooding. All those matters will be fully investigated and further due diligence will be done in terms of tank rehabilitation in Point Fortin.

Sen. Obika: Thanks, Madam President. Given the statement of the Minister and the age of the tank and there are tanks of similar age, are there any OSH reports that can give confidence that this would not happen with other tanks?

Sen. The Hon. F. Khan: No. The refurbishment has to do with the API standards which really is under the control of Heritage Petroleum Company Limited. However, as I said before, the hydro-testing itself was a preventative measure. Okay? So that is the ultimate test. After you refurbish the tank, you do all the welding, you do all the X-raying, you comply with all the API codes which is the American Petroleum Institute codes. A lot of tanks have been refurbished over the last two years or so and none have failed. Obviously, we want to get to the root cause of why the failure at the base took place.

Sen. Obika: Last question, Madam President. There are persons who would have lost property, vehicles, for example, damaged. Can the Minister indicate which agency is responsible for recompensing these persons?

Sen. The Hon. F. Khan: The agency responsible for that will obviously be Heritage, if they are found to be liable and if the damage was caused as a result of the rupture, I am almost certain that Heritage would make good on the

compensation.

Madam President: Next question, Sen. Mark.

COVID-19 Safety Protocols for Employees

(Steps Taken)

Sen. Wade Mark: Thank you, Madam President. To the Minister of Labour and Small Enterprise Development: Can the Minister indicate what is being done to address concerns that many employees are being subjected to working conditions that do not conform with the COVID-19 safety protocols?

Madam President: Minister of Labour and Small Enterprise Development, you have two minutes. [*Desk thumping*]

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you very much, Madam President. I want to thank my colleague, Sen. Wade Mark, for that question. Madam President, the Government has been diligently producing guidance information for the public to protect themselves during this pandemic. This includes sending out specific guidance to employers regarding the management of places of work.

The Ministry of Health has been the lead authority in the Government's response, however, this has been supplemented by the work of other authorities including the Occupational Health and Safety and Health Authority and Agency popularly known as OSHA. OSHA is the public authority responsible for enforcing safety and health standards in all work places in Trinidad and Tobago. To ensure that employers and employees fully understand the requirements of compliance with specific reference to the novel coronavirus pandemic, the OSH Agency has been releasing information and guidance documents to assist employers to achieve compliance with the guidelines on COVID-19 set out by the Government and addressing the sectors highlighted in the reopening plan.

The following is a summary of these initiatives guidance documents: One, guidance on COVID-19 for businesses and employers. Two, working from home guidelines. Three, returning to work guidelines, and we are very happy indeed that this document was able to reach over 53,000 persons on social media alone. Madam President, the OSH agency has also—

Madam President: Minister, your time has expired. Sen. Mark.

Sen. Mark: Madam President, can the Minister share with this Senate whether there are some health and safety issues concerning these said protocols at it relates to the OSH agency itself, including inspectors of that agency?

Madam President: Minister.

Sen. The Hon. J. Baptiste-Primus: Madam President, what I can share with this honourable House and I dare say, I believe my colleague is referring to certain statements made in the media. I wish to point out that those issues that have been highlighted, the OSH agency has established internal protocols for their inspectors.

And, Madam President, it is very well known that not everything that is put in place, all workers would be in agreement with. Having led a trade union in that regard, you cannot please everyone but the fact is, the protocols are there. Those issues are being addressed by the executive director of the OSH agency.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can I ask the hon. Minister, if she can share with the Senate what are these internal protocols identified by the hon. Minister in terms of the OSH agency?

Madam President: Minister.

Sen. The Hon. J. Baptiste-Primus: Madam President, I invite Sen. Wade Mark to visit the OSH website where the numerous in-depth, detailed protocols are easily available.

ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Government is pleased to announce that it will be answering questions Nos. 96, 97, 131, 133, 153, and 154. We ask for a deferral of two weeks for question No. 132, and we will be also answering the question that is due under written, question No. 150 to the Minister of Finance. That answer will be circulated.

WRITTEN ANSWER TO QUESTION

Housing Bonds

(Details of)

150. Sen. Taharqa Obika asked the hon. Minister of Finance:

As regard the housing bonds with a 1.5 per cent interest rate to be issued by the State, can the Minister indicate the following:

- (i) the terms and conditions of the bonds, including but not limited to the duration, tranches, denomination of currency, fixed/floating, secondary market treatment;
- (ii) the targeted potential bondholders;
- (iii) the likely impact of issuing these bonds on debt to GDP; and
- (iv) the repayment mechanisms to be established?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

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

Coronavirus Effects on the National Economy

(Measures to Address)

UNREVISED

132. Given the views expressed by leading economists that the coronavirus poses a serious threat to the national economy, can the hon. Minister of Finance advise as to what measures are being contemplated to address this potential problem?

Question, by leave, deferred.

Subventions Provided to Petrotrin

(Details of)

96. Sen. Wade Mark asked the hon. Minister of Finance:

Can the hon. Minister advise as to what were the direct subventions provided to Petrotrin by the central government in each fiscal for the period 2016 to 2019?

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. The question is based on a false premise because it is a matter of public record that Petrotrin became a non-operational company just after the end of fiscal 2017. The idea of a direct subvention to a non-operational company is thus a flawed concept. The answer to the question will therefore be framed in recognition of this reality.

Apart from government guarantees in excess of \$2.7 billion during fiscal years 2016 to 2019 for short-term loans taken out by former Petrotrin, the Government also assumed the liability the period for \$1.4billion in payments owed by the former Petrotrin to NP and Unipet.

The Government is also owed \$3.3billion in royalties and taxes not paid by the former Petrotrin during the fiscal years in question and to the present day. It is to be noted that these figures exclude interest and penalties due on these unpaid taxes.

Madam President: Sen. Mark.

Sen. Mark: Madam President, could the Minister indicate whether Petrotrin

received any direct assistance financially from the Government for its operations between the period 2016 to 2019?

Madam President: Minister.

Hon. C. Imbert: Madam President, it should be obvious that if the Government decided to forego payment of royalties and taxes in the amount of \$3.3 billion, then the Government provided Petrotrin with the equivalent of \$3.3 billion in the period in question.

Madam President: Sen. Mark.

Sen. Mark: Madam President, could the hon. Minister indicate whether he can share with us the profitability of this particular company during the said period 2016 to 2019?

Madam President: Sen. Mark, that question is not allowed.

Hon. C. Imbert: And I told you it was non-operational, so what are you talking—

Madam President: Minister, Minister, I did say—Minister, the question is not allowed. Next question.

Sen. Mark: I am okay, Ma'am.

Madam President: Move on to question No. 97?

Sen. Mark: Yeah.

Heritage Petroleum Limited and Paria Fuel Trading Limited

(Staffing Details)

97. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:
With respect to Heritage Petroleum Limited and Paria Fuel Trading Limited, can the hon. Minister 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?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in response to (i), the names of the persons who hold the position of, or are acting in the position of Chief Executive Officer and/or President in each of the companies are as follows: Heritage Petroleum Company Limited, the Chief Executive Officer is Ms. Arlene Chow; for Paria Fuel Trading Company Limited, the General Manager is Mr. Mushtaq Mohammed.

The names of the persons who hold the positions of Chief Financial Officer: Heritage Petroleum Company Limited, the Chief Financial Officer is Mr. Nigel Campbell; Paria Fuel Trading Company, there is no chief financial officer. The position is financial lead and that is held by Ms. Isabella Nelson-Lovell.

The compensation packages comprise a base salary and medical pension car allowance and housing allowance, and these benefits are as follows: for the CEO of Heritage Petroleum Company Limited, base salary is \$150,000 per month. The CEO for Heritage accepts no housing allowance, vehicle allowance nor pension contribution. The CFO of Heritage, base salary is 80,000; housing allowance, 8,000; vehicle allowance, 14,000; pension contribution, 8,000; a total of 110,600.

GM Paria, base salary, 86,700; housing allowance, 8,670; vehicle allowance, 16,667; pension contribution, nil; a total of 112,037. Financial lead, Paria, base salary, \$4,333; housing allowance, 4,333; vehicle allowance, 7,900.16; pension

contribution, 4,333.30; a total of 59,915,60.

In response to (iv), the General Manager of Paria Fuel Trading Company, the CFO Heritage and financial lead Paria positions were advertised in the newspapers and online. The individuals were shortlisted and subsequently interviewed. The CEO of Heritage Petroleum Company Limited, however, was headhunted after the previous holder left the position suddenly as a consequence of illness.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether the CEO of Heritage Petroleum Company Limited has now been permanently engaged by Heritage Petroleum Company Limited?

Madam President: Minister.

Sen. The Hon. F. Khan: The CEO of Heritage Petroleum Company Limited has an initial contract for one year. That contract will expire around September of this year, and it will determine what will be the future in the negotiations with her, whether she will be willing to continue in that position, because I think the consensus is that she has performed quite creditably, I should say.

Sen. Mark: Yeah. Madam President—

Madam President: Sen. Mark, yes.

Sen. Mark: Can I ask the hon. Minister, through you, how were these compensation packages arrived at and by whom?

Sen. The Hon. F. Khan: The compensation packages are benchmarked to industry standards and the data is published and it was used by the HR department of the companies.

Sen. Mark: Is there any particular agency within the industry, through you, Madam President, that would have used to determine these benchmark figures, any

particular study that is in there?

Sen. The Hon. F. Khan: I think there is a study available. I forgot the name of the HR consultant that benchmarks energy sector executive salaries and that is the one that was used.

Sen. Mark: In the case of one Mr. Mushtaq Mohammed, did that individual—was he subject—or his position, I should say, forget the individual— his position was subject to national advertisement?

Sen. The Hon. F. Khan: Well, I said so in my answer quite clearly.

Sen. Mark: Could you share with us—

Madam President: That is it, Sen. Mark, you asked four questions.

Sen. Mark: Thank you, Madam. Which one?

Madam President: You are now onto question 131.

Sen. Mark: Okay. Right.

Homicides by 800 Shooters

(Bringing to Justice of)

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

In light of the statement made by the Commissioner of Police that this country has approximately 800 shooters who are involved in the majority of homicides, can the Minister indicate what specific measures are being taken to bring said shooters to justice?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, according to information provided by the Commissioner of Police, one of Trinidad and Tobago Police Service strategic approach is adopting a zero tolerance approach to crime and criminality. In this regard, the TTPS' strategic plan 2019—2021, crime prevention and detection measures that aid in crime reduction, regarding the use of firearm and in bringing

perpetrators to justice include the following seven measures.

First, the Trinidad and Tobago Police Service is using intelligence, technological and evidence-based approaches, specifically targeting firearms in which a number of seizures were made in relation to firearms and ammunitions found and seized, as well as number of persons arrested for being in possession of these firearms.

Madam President, if you go to the TTPS' Facebook page you will see, for example, June 4th, a Rio Claro couple held with a shotgun and 18 cartridges. June 6th, a Barrackpore man held with a .38 revolver and ammunition. And today, you will see yesterday someone from Las Lomas was held with a shotgun, and a warrant was executed in Morvant which yielded two guns and ammunition. So clearly, we see the result of that particular measure.

Secondly, the sanctioning of already specialized tactical teams such as the special investigations unit, Special Operations Response Team, the research and analysis unit. These teams, Madam President, have been formed for targeted operations with an emphasis on criminal gangs and other organized crime groups.

Three, the TTPS has been focused on the dismantling of criminal gangs and the arrest and charge of priority offenders which has been a work in progress with approximately 40 per cent of these priority offenders being arrested for possession of firearms. We see that firearms issue repeating, Madam President.

Fourth, the focus by the TTPS on the de-escalation by employing multipronged tactics that target repeat offenders. That has been a subject of the work of this House, Madam President, in relation to bail for firearm offences, in particular.

Fifth, the TTPS has been engaged in robust strategic road checks and stop and interview exercises which have proven to be a very effective method in

obtaining information of persons who may be involved in criminal activity. It has also been proven to be a good method in recovering firearms and ammunition.

Sixth, very important, Madam President, the TTPS recognizes the importance of the committee having a vital role in the detecting, the reporting and the handling of crime. So the engagement of members of the committee and the identification of local concerns regarding policing and community safety has been a priority of the police service.

And seven, Madam President, the TTPS recognizes the importance of data and data analysis, crime data analysis determining crime patterns and the development of customized strategies to combat and stymie crime. I thank you very much.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the Minister indicate how, with the deployment of these measures, how successful has the TTPS been in reducing the number of shooters in Trinidad and Tobago?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, as I have said on previous occasions on similar questions, these strategies work together with a number of other things, including legislation. So that the third measure I pointed out, I gave the statistic of 40 per cent of priority offenders have been arrested for possession of firearms but, Madam President, I also said that that would work even better if we have legislation targeting assault weapons and the denial of bail for 120 days in relation to that particular offence.

So, as I have said, and in relation to the first measure, the use of intelligence and evidence-based approaches—if you go to the information put out by the TTPS, Madam President, you would see, for example, the guns from Morvant yesterday

in which five persons were arrested was as a result of a search warrant, so that is on the basis of information being provided, and the use of all the approaches which I listed as the first measure.

So, Madam President, in response, I would say that there is evidence that these measures are working but I would also say that it would be further strengthened if we deal with firearms and the possession of firearms in a more serious manner, and if we deal with repeat offenders in a more serious manner. Thank you.

British Petroleum Company London Meeting

(Details of)

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

Can the Prime Minister indicate what were the specific agenda items raised by him with the executive members of British Petroleum Company at a meeting held at the company's headquarters in London?

The Minister of Energy and Energies Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, Trinidad and Tobago is an important jurisdiction in BP's global operations. The Government has spent—in fact, I should say this Government has spent a lot of time and energy ensuring that in this global competitive environment, where multinational oil companies have to decide where to invest their capital, the competition for capital as it were, that we in Trinidad and Tobago are a focus and a point of continued investments.

The Prime Minister has built solid relationships with the decision-makers in the multinational companies including BP. The discussions focus on the continued investments in Trinidad and Tobago and the strengthening of the relationship in a time where globally commodity prices have crashed. Thank you, Madam

President.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the Minister indicate in the discussions with BP executives in London led by the Prime Minister, can the Minister indicate whether in those discussions included, among other items, a renegotiation of the recent concluded gas contract between BP and the National Gas Company?

Madam President: Minister.

Sen. The Hon. F. Khan: Madam President, through you, when the Prime Minister meets with the CEOs, chairmen of the board and senior executive of these multinational companies, he does not deal with specifics. He goes and outlines Trinidad and Tobago's position, as I have said, that we need to have continued investments in Trinidad and Tobago, and the Government will do all in its power to keep Trinidad and Tobago as a preferred destination for international capital investment in the oil and gas sectors. These specific negotiations do not fall under the domain of the Prime Minister, and he has never and will never engage in them.

Sen. Mark: Can the Minister indicate, Madam President, whether BP was responsive in a positive manner to the Prime Minister's "suggestions" as it relates to its continued investment in Trinidad and Tobago?

Sen. The Hon. F. Khan: The answer is a resounding, yes, BP has since sanctioned the Cassia C project. They have completed the Angelin and other gas field, and they have now sanctioned the Matapal project, and all these projects are on stream, and BP has not cut any of its investments in Trinidad and Tobago over this period.

10.30 a.m.

Sen. Mark: Madam President, may I ask, through you, to the hon. Minister, whether there will be any possible reduction in light of recent developments

globally involving bpTT or BP, whether there is a possibility, any possibility, of workers in that operation in Trinidad and Tobago being disengaged?

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

Sen. Mark: Okay. Thank you very much, Madam President.

Madam President: Next question, Sen. Obika.

Farmers Market in Point Fortin

(Details of)

153. Sen. Taharqa Obika asked the hon. Minister of Agriculture, Land and Fisheries:

Given the presence of the farmers market in Point Fortin, can the Minister advise as to the following:

- (i) whether a permanent location has been identified to house said market; and
- (ii) what are the challenges, if any, which may prevent the setting up of the market at such location?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, the National Agricultural Marketing and Development Corporation, NAMDEVCO, has a series of farmers markets across the country, as well as three wholesale produce markets and two wholesale fish markets. The farmers markets are currently located in Diego Martin; Queen's Park Savannah; Macoya; Chaguanas, North of the Divali Nagar; Woodford Lodge, Chaguanas; Gilbert Park, Couva; Harris Promenade, San Fernando; Point Fortin; Rio Claro; and I am happy to say, Madam President, on Sunday I was in the royal Borough of Arima where we launched a rather large and successful farmers market. Madam President, we also recently launched a farmers market in collaboration with the Kapok Hotel, at their car park on a trial basis, and

we are looking to see the feasibility of continuing that mid-week market in the City of Port of Spain.

Madam President, some farmers markets are housed in permanent facilities. For example, NAMDEVCO market at Macoya and the Woodford Lodge farmers market, and the majority of them are housed in tents in municipal controlled locations. So we use a mix of fixed facilities and moveable facilities, particularly within the municipalities. These arrangements are under periodic review based on suitability, size, competing usage for the location and other factors. So, Madam President, at this time NAMDEVO has made no decision in relation to having a permanent facility for the Point Fortin farmers market. I thank you.

Madam President: Sen. Obika, no? Next question, Sen. Obika.

Bonasse Village ECCE Centre

(Details of)

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

As regard the construction of the Early Childhood Care and Education Centre in Bonasse Village, Cedros, can the Minister indicate the following:

- (i) what are the causes for the delay in the completion of the centre;
- (ii) what is the total amount spent on said centre as at April 30, 2020; and
- (iii) what is the total remaining construction cost?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, and I urge my friend to listen carefully so he does not get into trouble again. Construction of the Cedros Early Childhood Care and Education Centre in Bonasse Village began in March 2014. In May 2016 when the construction of the centre was substantially complete, the contractor terminated the contract because of a number of payments being outstanding. At that time, Madam President, the Government was focused on the prudent use of

scarce resources required to run the country, and the Ministry of Education had to give priority to making payments towards the reduction of the debt owed to the contractor before entering into any new and additional financial commitments.

As at April 30, 2020, the Ministry of Education had spent approximately \$4.6 million on the construction of this early childhood centre at Bonasse Village. At present a very small sum remains to be paid to the contractor who terminated the contract.

Madam President, a condition assessment of this facility conducted last year disclosed the need for restorative work to be done at the facility because of weathering and losses through theft and vandalism over the last four years. The rough estimate of the cost of retendering and completion of the works including outfitting the centre is \$7 million. This estimated \$7 million will also cater for all restorative work. I thank you.

Madam President: Sen. Obika.

Sen. Obika: Thanks, Madam President. For the pupils in Bonasse Village, Cedros, when would the Government resume work on the Early Childhood Education Centre?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, having regard to the resumption of activities across the country in particular, the construction sector and the Government's activities in relation to construction, the Ministry of Education together with the Ministry of Finance are currently looking at the incomplete works—I said that in relation to another early childhood centre—and determining on a priority basis which of those facilities would be completed. And when that the exercise is finished, we would know what is happening to the Cedros Early Childhood Care and Education Centre. I thank you.

Madam President: Sen. Obika.

Sen. Obika: Thanks, Madam President. Given those deliberations that the Minister outlined, can the Minister indicate a tentative end date for delivery of this early childhood centre?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, the simple answer is no.

**MISCELLANEOUS PROVISIONS (REGISTRAR GENERAL,
REGISTRATION OF DEEDS, CONVEYANCING AND LAW OF
PROPERTY, REAL PROPERTY, STAMP DUTY AND REGISTRATION
OF TITLE TO LAND) BILL, 2020**

[Second Day]

The committee of the whole Senate resumed its deliberations on the Bill.

[Chairman: Mrs. Christine Kangaloo]

Madam Chairman: Hon. Senators, before we begin the deliberations, all Senators should have the list of amendments circulated by the Attorney General and the list of amendments circulated by Sen. Mark. Attorney General, you need any assistance there?

Mr. Al-Rawi: May I just make a few inquiries, through you, Madam Chair.

Madam Chairman: Yes.

Mr. Al-Rawi: Pursuant to another meeting held with the Law Association yesterday, we accepted further amendments coming from the Law Association, and as a matter of ease we emailed to the Clerk of the Senate a marked-up copy of the Bill as it is proposed to be amended, together with the circulated list, so I am just enquiring whether Members have that marked-up copy of the Bill as it will be amended.

Madam Chairman: I think Members should have that. It is a marked-up copy

dated the 9th of June, 2020.

Mr. Al-Rawi: The 8th of June, because mine is dated the 8th of June, Madam.

Madam Chairman: Everyone should have received it via email and you will be working with it from the email, yes?

Mr. Al-Rawi: Yes, they made changes.

Madam Chairman: I am looking at the Members just to indicate, so that there is confirmation that you would be working with the marked-up copy from the email that you received. Thank you. And just for ease of reference please, the marked-up copy is dated the 9th of June, 2020. The amendments, the list of amendments, that list is dated the 8th of June, but the marked-up copy of the Bill is dated the 9th of June. And before I proceed, even though we have a marked-up copy of the Bill, as we treat with the committee stage deliberations I have to treat and put the clauses in the original Bill. Is that okay?

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

Clause 3.

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

Madam Chairman: We have an amendment proposed by Sen. Mark and then we have the amendment as proposed by the Attorney General. I would treat with the amendment as proposed by Sen. Mark first. Sen. Mark.

Sen. Mark: Yes. Thank you, Madam Chair. Madam Chair, my amendment is very simple and straightforward based on the research that I have conducted on this matter, both in terms of international declarations and standards as well as court judgments on this matter of freedom of access to information falling under our sections 4 and 5 rights, under freedom of expression and thought, I would like to ask the Attorney General if he can really justify in 2020 this attempt to deny citizens access to deeds of trust or instruments of trust, because it is not sitting well

with the research that I have conducted as it relates to declarations and court judgments? So I would like the Attorney General to really explain to us why he would want to choose to have this deleted or, the public access rather, to deeds removed?

Madam Chairman: Is there anyone who wishes to make a comment on Sen. Mark's proposed amendment before I call on the Attorney General to respond?
Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. I thank Sen. Mark for his question which springs from the proposed amendment he has drawn. If I could just explain, Madam Chairman, the European Court of Human Rights, in considering an open registry for trusts in France, which has a civil law system which provided for full access to trusts registries, struck down the law as a breach of the rights of the individual in treating with trusts.

If I could explain, Madam Chair, this clause as it stands, is to create for the first time a register for trusts in land. Prior to this, trusts could be created without a requirement for registration, and the use of trusts is a device of significant fraud. In Trinidad and Tobago, the use of a declared trust is such that persons when they convey land from A to B, when that land is signed off and paid for, as a conveyance to B, B can be a secret person, B can be a cover to a secret person and that secret person is the real owner of the property, the concept of beneficial owner. That real owner can arrive 20 years later, two years later, six months later, present a declaration of trust, which could either be in writing or not, because you can just bring an instrument which refers to a trust, and then transfer that property from B to the secret owner. That is Mr. C or Mrs. C. So the instrument of fraud that is perpetuated in Trinidad and Tobago is that there is no requirement for a register of trusts.

In other words then, trusts are not required to be done by deed. But because trusts are a very careful instrument which involves including the technique of what is referred to as a secret trust, the concept of a secret trust in law is well anchored. And secret trusts are used legitimately for people where they want to create a structure for the benefit of other people. Because of the learning that has come out of the European Court of Human Rights and in the rest of the Commonwealth, the proposal is that this register of trusts for land is to be a private register, subject to the full inspection of the FIU, the Trinidad and Tobago Police Service, Chairman of the Board of Inland Revenue, or an order of court. By this technique, we would therefore be balancing what the law recognizes as a trust, careful regard for secrecy or privacy, because there is a privacy aspect in your arrangement of trust against the law enforcement facility.

Madam Chair, this abuse of trust in Trinidad and Tobago, I can confirm as a member of the National Security Council, there are billions of dollars in property registered in people's names. We have matters in court where the real owner is not apparent because people use the trust principle to hide the ownership. This appears to be a simple amendment, but it is a radical amendment towards stamping out corruption.

I want to add as well, we have received four years of submissions on this Bill from the Law Association. Let me repeat that; 2017, '18, '19 and '20. Up to last night I held further Zoom meetings with Law Association's sub-committee. No one in the Law Association has complained about this. They accept the registration of trust. They accept a private register. The Bankers Association, all of the stakeholders over the last four years have accepted, not only that we should register deeds of trust for the first time, but that there should be a careful balance between the right of privacy in the trust against the public scrutiny by the Trinidad

and Tobago police. I will end by saying, this is exactly similar to what we did in the income tax amendments, where we allowed the secrecy provision in section 4 of the Income Tax Act to be open to the scrutiny of the same persons here; the FIU, the police, an order of the court, and the chairman of the Board of Inland Revenue. So, for those reasons I respectfully do not accept Sen. Mark's recommendation.

Madam Chairman: Sen. Vieira, and then Sen. Hosein, then Sen. Mark, and then the Attorney General.

Sen. Vieira: Thank you, Madam Chair. Hon. Attorney General, you always speak about plant and machinery. For the record we are creating new indices and records, does the Registrar General's office have the capacity to maintain these records? And secondly, my other concern was, DATA protection, privacy, that balancing and protection of rights.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam Chair. Just a query to the Attorney General, through you, Madam Chair. Attorney General, at sub 3(ii)(1A), which deals with those persons who will have access to the register and the indices, I am looking at (b) in particular, where the TTPS has access. I know in the Income Tax Act, the amendment, we had restricted the offences to that of POCA, anti-terrorism, and I believe one other Act. I am saying that it is wide in that there is an investigation whether an offence has been committed. I know in the Income Tax Act we had made some restrictions, and I want to know if whether or not we will want to adopt that prescription in that Act to just keep the uniformity?

Madam Chairman: Attorney General. No, Sen. Mark.

Sen. Mark: Madam Chair, this is a very, very serious matter. It involves, you know, fundamental human rights that the citizens enjoy for almost 100 years, and I

would ask the Attorney General, when he talks about fraud whether that fraud includes denying citizens and the taxpayers of stamp duties, which is part of the fraud? In other words, does this fraud include tax evasion and the non-payment of stamp duties, and these persons are using the deed of trust in an effort to deny the taxpayers of this country vital revenues? I want to get that clear. Because, Madam Chair, I want to make it very clear, the Attorney General, I would like to ask, through you, under 42(5) of our Standing Orders, whether the Attorney General is conflicted in this matter, because this is a very serious matter that we are dealing with, and I would like to know through you.

Mr. Al-Rawi: What nonsense is this?

Madam Chairman: Sen. Mark, first of all, I do not think that that issue should be raised at this stage in the committee stage and that sort of thing. I also am noting that your comments are moving away from the amendment proposed by you, which is—I need us to focus on that amendment. Okay?

Sen. Mark: But, Ma'am. Madam Chair, if you—

Madam Chairman: I am going to ask the Attorney General to respond.

Mr. Al-Rawi: I am sort of astonished by the submission coming from Sen. Mark—I will come to that last—just to be rejected out of hand, Madam Chair.

With respect to Sen. Vieira's enquiry as to plant and machinery, the hon. Senator is exactly on the point. If I could just say, not only have we increased the staffing at the Registrar General's office, moved the Registrar General's office from South Quay to the new premises, improved its vault facilities, but we have also used information technology.

We have introduced a brand new hardware server, software and system, it is called the Property Business Real Estate Solution. It is in the final Version III right now, June 2020, it started already. The operation of that system goes live in

September at latest. We have been testing that PBRs system with the members of the Law Association, the C-4 Committee, the Conveyancing Committee. They have actually been using the system for years, because we wanted to test it out in all of its forms. We have two forms of plant and machinery capable therefore of managing the registers. They are the IT side of the register, and also the physical side of the register, because it ties in to the hon. Senator's question about data protection and the management to provisions. As you know, the Data Protection Act is partially proclaimed. There are some unconstitutionality in that Act which has not resulted in its full proclamation. Largely, because technology has moved a long way since 2011 as to data security, electronic signatures, all of those things are now archaic when you look at the Electronic Transactions Act and the Data Protection Act side by side.

We are proposing—well, the registers are very easy to create and to populate on the manual side. We recently created the register for real estate agents, non-profit organization, beneficial ownership, a number of registers, and we have in fact received thousands and thousands of documents easily on the manual side.

The PBRs system when it goes live, means that you would be doing all of your filing electronically. You can pay already electronically at the AG's office, Legal Affairs, and IPO. That is a first of its kind position. So, we have the plant and machinery. I want to remind that the proclamation of this law is materially hinged to the software in the PBRs system. And this law is not intended to be proclaimed until the PBRs system is put into effect.

So, there is a careful scrutiny to all of the manpower, physical bodies, physical space, electronic filing, electronic payment, and that system is a best in class system which is already in operation and we have been testing it for several years right now in conjunction with the legal fraternity. I want to also remind, that

the filing of trusts is now the obligation of a lawyer and only a lawyer. The same way a lawyer in the Judiciary files documents right now via an authorized clerk or the lawyer, with the use of a practising certificate, an FIU registration number, a key—a specialist key that you use for data certification. All of those features go in with this. So the ease of doing the registration is accomplished by the use of manpower, physical plant and space which we have created, and technology.

We, Madam Chair, had a query coming from Sen. Hosein asking about the TTPS formula which we did in the Income Tax Act. I thank the Senator. In the exceptions to section 4 of the Income Tax Act, we did use a different formula, and we tied it into proceeds of crime, white collar offences, anti-terrorism, et cetera. Because this law tackles much more than just proceeds of crime, for instance, stamp duty evasion, you can tackle stamp duty avoidance. A tax which is stamp duty, can be legitimately avoided. The law is that you are entitled to avoid taxation easily. There is no offence for avoidance. However, tax evasion is a different matter. This law is intended to treat with much more than just proceeds of crime. It is intended to treat with the use of an abuse of a trust in beneficial ownership.

Now, to deal with Sen. Mark's, I do not know where he was going. To deal with Sen. Mark's continuation of the conversation we had the last time that Minister Imbert had to put straight, what I can say is, I am in no circumstance compromised, and I do not know what Sen. Mark is saying, and I reject that out of hand. What I can say, the use of the trust is never a matter of evasion of stamp duty necessarily. How the fraud works, if I could just explain it to hon. Members, because this is a complex area of law. In the abuse of trust, Mr. A is selling to Mr. B. Mr. B does a conveyance—receives a conveyance, they go, they sign up in front of the lawyer, they pay the money. B pays A. The conveyance is signed, the money is passed over. Mr. B is holding on to the conveyance. To register the

conveyance there are certain steps. You go to the Board of Inland Revenue, you present the deed, they assess the deed, they may or may not ask you for a valuation. They may value it themselves, because stamp duty does not accept what you bring. They assess it themselves. They ask you for supporting information. They put a stamp on it. They pay their stamp duty.

Enter the scheme now, the reality of Trinidad and Tobago. How this trust works is, there is a separate agreement between B and Mr. X. Mr. X is the real corrupt person that owns the property. Mr. X used B as a cover. Twenty years from now, Mr. X rolls up with that stamped deed between A and B, legitimately paid, no penalties for late stamping of stamp duty, presents that instrument, it could have been registered, and then says, "I want to legitimately unwind a declared trust." He produces a document, sometimes not even one, he just produces another deed that says there was a trust between B and X.

11.00 am

That instrument of trust simply causes the transfer of stamp duty from the document between A and B to a new document between B and X. Twenty-five-dollars stamp duty maximum and a billion-dollar property is transferred without anybody seeing the transaction. So because this formula is more than proceeds of crime or money laundering, et cetera, this is the largest sphere we have gone with, the access to the TTPS being:

- “(1A)(b)(i) investigating whether an offence has been committed under any written law;
- (ii) the laying of information;
- (iii) or the preferring of an indictment,

where such information can reasonably be regarded as being necessary for

the purpose of ascertaining circumstances...”—of—“an offence...”—et cetera.

So, this is a very specific position. I want to kill and bury this mischief that Sen. Mark is carrying forward, very carefully and very politely and within our rules. This law is designed to disclose the real owner. That is what this law is about. It is very easy for people to make up allegations. This law is squarely posited to manage the reality of actual fraud in Trinidad and Tobago. And that therefore is the reason for all of the structure, Madam Chairman.

Madam Chairman: Thank you. Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chair. Attorney General, through you Madam Chairman, I just want confirmation of one thing. If you look at clause 3(a)(iii), paragraph (f), it is on page 3 of the marked up version of the Bill.

Mr. Al-Rawi: Yes.

Sen. Deonarine:—which speaks to how you plan to go about entering the index of contracts of sale, right?

Mr. Al-Rawi: Yes.

Sen. Deonarine: Now given that you have drawn reference to the automation of the Registrar General’s Department, could you confirm that this would be done electronically?

Mr. Al-Rawi: Sure. Madam Chairman, it is actually done both manually and electronically. The Data Protection Act which is what Sen. Vieira referred to, requires you to maintain a physical record and an electronic record. So there are always two systems, public authority bodies are required to have physical copies as well, so there will be both. And this formula, beginning with paragraph (f) as in “foxtrot”, is a continuation of how the law— the Registrar General’s Act does all of the other registers. So we are just introducing now, the register of trusts, the

register of contracts, the other forms of registers, which is why we go up to eight registers in number. There were four previously, now there are eight. The eight is to capture the trusts, the contracts, et cetera, et cetera, so they are done both ways.

Sen. Deonarine: Okay, thank you.

Madam Chairman: No. Sen. Mark, I think we have had enough discussions on the first part of your proposed amendment. Can I just ask you to deal with the second part of your amendment at B, so that I can put the amendment to the Committee.

Sen. Mark: Madam Chair, I just want to clarify something further.

Madam Chairman: If you are seeking clarification, it must be brief, please.

Sen. Mark: Madam—

Madam Chairman: Yes?

Sen. Mark: Madam Chair, what I am simply saying is that the Attorney General and myself are on the same—

Mr. Al-Rawi: I cannot hear, Sen. Mark. I am so sorry.

Sen. Mark: The Attorney General and myself are on the same page when it comes to the matter of rooting out fraud, I have no problem with that. My problem is, why is the Government seeking to deny the public access to these documents? And there is where, Madam—

Madam Chairman: I think Sen. Mark, the Attorney General has dealt with that, has responded on that issue and I will ask you now to deal with the second part of your proposed amendment to clause 3.

Sen. Mark: Madam Chair, I am suggesting that under section 7—

Madam Chairman: Page 9 of the original Bill.

Sen. Mark: Yes, of the original Bill.

Madam Chairman: Yes, page 9.

Sen. Mark: Yeah, page 9. Madam Chair, I am proposing that where we have:

“The Minister may, by Order subject to negative resolution...”

—that we delete “negative” and put “affirmative”. Again, because of the complexity and far-reaching nature of the legislation that we are dealing with, we would want direct oversight through a debate on these Orders that the Minister, in this instance, the Attorney General, might be embarking upon. So I think, Madam Chair, it is clear, my proposal is that we delete “negative” and replace it with the word “affirmative”.

Mr. Al-Rawi: Sure, Madam Chair. I thank Sen. Mark for his recommendation. The Schedule is the schedule of fees; \$100, 50 cents, whatever it might be. To take Sen. Mark’s recommendation is astounding. You come to Parliament to amend the Schedule, to raise the fee from \$1 to \$2. That is not an appropriate use of the Parliament’s time, Madam Chairman, most respectfully. Affirmative resolution is generally reserved for matters of serious constitutional importance, not for administrative matters. We have put it subject to negative resolution so that if somebody has an objection, they move a Motion to negative what has been produced by way of the Order. And this is, most respectfully, the most appropriate way to manage the amendments.

Sen. Mark: That is not for the Executive to decide. This is a Parliament and the Parliament should have oversight of whatever the Executive arm is doing. So, when I am told that that is a waste of Parliament’s time, that is not the business of the Executive. That is the business of Parliament. And all I am reiterating, Madam Chairman, is that we need to have checks and balances on the activities especially where fees are being imposed on the population by the Executive arm of the State. That is my argument, Madam Chair.

Madam Chairman: So hon. Senators, I will now propose the amendment as

circulated by Sen. Mark.

Question put.

Sen. Mark: Division.

Madam Chairman: Members, we will give three minutes for all Members to return for the division.

We are about to start the division. If anyone comes in while the vote is being taken they would be allowed to place their vote. I remind Members that we are voting on the—the division has been called on the amendment to clause 3 as proposed by Sen. Mark.

The Committee divided: Ayes 4 Noes 21

AYES

Mark, W.

Hosein, S.

Obika, T.

Sobers, S.

NOES

Khan, F.

Gopee-Scoon, Ms. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Moses, D.

Hosein, K.

West, Ms. A.

Cox, Ms. C.

De Freitas, N.

Singh, A.

Cummings, F.

Lester, Dr. H.

Dookie, D.

Williams, J.

Richards, P.

Vieira, A.

Deonarine, Ms. A.

Seepersad, Ms. C.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

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

Madam Chairman: Attorney General, as we continue with clause 3, I will ask you now to deal with the amendments proposed on your behalf.

A. In paragraph (a)(i)—

(a) In subparagraph (A), delete the word “seven” and replace with the word “eight”;

(b) In subparagraph (D), delete proposed paragraph (e) and replace with the following:

Chap. 19:06 (e) contractors or agreements for sale or

Chap. 56:02 Deeds of Agreement for the sale or
other dispositions of land under the
Registration of Deeds Act or the Real
Property Act;”;

B In paragraph (d), by deleting all the words after the words “following paragraphs:” and replace with the following:

- | | | |
|------|-------------------------------------|------------|
| “(k) | for the registration of a contract | |
| | for the sale of land | \$100.00 |
| (l) | for late registration of a contract | |
| | for the sale of land | \$200.00 |
| (m) | for late registration of a notice | |
| | of execution of a registrable | |
| | document | \$200.00 |
| (n) | for late registration of a | \$200.00 |
| | registrable document for the | |
| | sale of land | \$200.00 |
| (o) | for variation or termination | |
| | of a contract for the sale of land | \$100.00 |
| (p) | for notice of execution of a | |
| | registrable document for the | |
| | sale of land | \$100.00 |
| (q) | for applications | \$100.00.” |

Mr. Al-Rawi: Yes, Madam Chair. So, Madam Chair, clause 3 is where we amend the Registrar General’s Act. And as a result of a significant number of meetings

that we held with the Law Association, in particular, amendments have been proposed which are reflected in matters circulated before us now. These amendments are effectively to treat with, number one, creating eight registers as opposed to four in the current law. Originally we were putting seven registers. However, the Law Association noted that insofar as the Government's policy was, that we would not be affecting title at all by the use of a contract, by introducing a system like the Roman Dutch law as Sen. Sobers supported. In looking at the system of registering a contract or an agreement for sale, when we are dealing with the Real Property Act, things which are dealt with under the Real Property Act are very strict.

Under the Real Property Act, matters are only created and interest is only created in law when the memorial of the transaction is registered on the back of the CT. It could be a memorandum of mortgage, it could be a memorandum of lease, it could be a memorandum of gift. Under the Real Property Act, you have a mandatory requirement for registration, otherwise it just does not work. So 20 per cent of the law of the land of Trinidad and Tobago— 20 per cent of land right now only passes in law and in equity when you register it. That is under the Real Property Act.

Because we are introducing a register of contracts or agreements for sale, and those contracts have nothing to do with title, we cannot put it on the back of the CT, because this is only noticed to the world that X entered into an agreement for sale to sell to Y. This feeds the whole concept of the buyer being aware or the buyer being wary, caveat emptor. What this does is that it allows, for the first time, perhaps the most vulnerable in society to be protected by reason of the transparency of simply a register of contracts. So because the RPA, the Real Property Act only recognizes a system of memorials on the back of a CT, a

certificate of title, we had to create an eighth register.

Secondly, Madam Chairman, you will see that we are proposing that the contracts be separated. So remember, we have two effective systems, apart from the Registration of Titles to Land Act. We have what we called the common law system, which is the registration of a deed and then we have the Real Property Act system. What we are recognizing in paragraph (e) that is circulated for hon. Members, is that we separate out these contracts. So if you are dealing with “old law” as we call it, or “common law”, you have a register of contracts. If you are dealing with Real Property Act, you have a register of contracts. And, of course, Madam Chairman, that is the rationale, springs from our conversations with the Law Association. Importantly, the other amendments that we have circulated, Madam Chairman, are really quite simple.

Now, under the existing law, I have just pointed out, Real Property Act matters, you have to register otherwise you have no interest. Nothing happens until the memorial is registered on the back of the CT, you get no title, no equity, no law. And if you would permit me, because this is a technical area of law. What is the difference between equity and law? Law is the concept of legal ownership; equity is the concept of beneficial or fair ownership. When I explain it to clients I usually do it this way, I say it is like Shylock in the *Merchant of Venice*. The contract is, you could get the pound of flesh, closest to the heart, but the equity or fairness was you cannot spill a drop of blood. It is like tearing a dollar bill in half. You cannot spend the dollar bill unless it is one dollar bill, one-half is equity, one-half is law.

Because we recognize that we are not affecting equity in any fashion at all—and you would see that in the other amendments that we talked about in clause 4—what we do here is we recognize currently, under the registration of deeds system,

two types of documents must be registered to be effective, that is a deed of gift or a deed of settlement. They are put in the town books or the country books. You cannot have a deed of gift unregistered and effective, or a settlement unregistered. And currently under section 18 of the Registration of Deeds Act, you pay a penalty of up to \$2,000 for late registration, but it is a quasi-judicial function. You must apply to the Registrar General, the Registrar General must then consider if your reasons look good, you can get no penalty or you could get up to \$2,000. And that was permitted because it was a pre-1962 law.

What we are doing is we are removing that section 18 and we are saying the maximum penalty that anybody can face for late registration is \$200. We are removing this \$2,000 thing which is capricious under section 18 of the Registration of Deeds Act and you will see therefore in the amendments that we proposed as circulated, Madam Chair, you will see that the highest fee that you are looking at is a \$200 fee.

So, Madam Chairman, the amendments that we proposed to clause 3 are effectively eight registers for contracts or agreements for sale. We identify what those registers are, that is in the subparagraph (e) on the first page and then what we do is we list out the price for filing. Remember, there is no longer in this Bill any exercise of discretion by the Registrar General. All the Registrar General does is receive your application for an extension of time, you pay a late fee of \$100, you pay a registration aspect of \$100, you have up to 24 months to register your documents. Let me repeat that. Twenty-four months. Under the mortgage bills of sale law, if you are taking a loan for \$15,000 on a car, you only have seven days to register that, otherwise is dead. You have to go to court and get permission to extend the time. Under the law that we are proposing we are saying, "Look, all of your things, your contracts, your deeds, whatever they are, you have to register

them, you have 12 months initially. If you cannot make the 12 months, you could get a maximum of another 24 months, it is just a form that you fill out and after 24 months, knock on the door of the court and let the court give you the time extended to register.” And those in the round therefore are the proposed amendments to clause 3.

Sen. S. Hosein: Thank you very much, Madam Chair. Just a few very short queries. Attorney General, when you were piloting the amendment, I just wanted to make sure, if you can confirm, one, whether or not the register with respect to the contracts for sale of land, whether or not that index would be split into two? One side being common law, the other side being RPA.

The second thing is with respect to the definition of registrable documents. Because we are amending the Registrar General Act but within that Act there is no definition of what is a registrable document. The third point is beneficial owners. Now, the policy of the Government is that the trust which is created will now be without sight of the public. If someone receives a beneficial interest under a trust, whether or not their names will be included in that beneficial ownership register, because it could be a bit confusing there in terms of the access of information. And the last document, the last query is at (g):

“registrable documents executed but not registered.”

Now, what I wanted to find out is that index going to deal with those documents that have been executed in escrow because it would seem that all documents now have to be registered, but whether or not that deals with specifically escrow documents? Thank you.

Madam Chairman: Attorney General, I will allow you to answer because it is quite a few questions.

Mr. Al-Rawi: Thank you. I want to thank Sen. Hosein for some very sensible

questions, generally, very sensible questions. I thank the hon. Senator because it allows me to clarify certain things. So, first of all, we do not split the register, we have two separate registers. So there will be an RPA, register of agreements for sale and there will be a common law register of agreements for sale, which is why we move the number from seven to eight, specifically to capture that. So it is not a bifurcated register, it is actually two separate registers.

Sen. S. Hosein: If I may, AG then we will have to create nine, you know. Because this has seven here, right, and then the trust register will make eight and if you are going to create a separate register for RPA common law then it will be nine index, you know. That is why I was confused with the number.

Mr. Al-Rawi: Sure, just let me check. Okay. I am corrected. It is actually bifurcated. The Deputy CPC is telling me—so that people do not have to go on a hunt, they are putting the register of contracts in one. So we actually went—I thought the number was eight for two separates. It actually would be nine. You are absolutely correct. I apologize. It is in fact eight and it came about in our—not this meeting, but one of the other meetings that we had with stakeholders, where they suggested, look, it is easier for convenience to just go to the contract register and then you would check old law versus RPA. So thank you, Sen. Hosein. I apologize, I got it wrong. We have amended this so many times in so many discussions that I am a little bit unclear sometimes on those issues.

May I then turn to the hon. Senator's question about the registrable document and the definition? So the definition of a registrable instrument will be found in the Registration of Deeds Act. So we are not using it here in the Registrar General Act because the Registration of Deeds Act feeds into what the Registrar General does. Same way the Non-Profit Organisations or the Real Estate Agents Act would have created certain registers, we did not need to necessarily put it in

the RG's Act—the Registrar General Act—because that law feeds this registry.

The beneficial ownership definition. We propose—I think we have, if I revert to it. In the Registration of Deeds Act where we create the concept of the trust, we have defined trust and this will be actually at page 38 of the marked up Bill and we described what an instrument of trust is, et cetera. And in clause 27, when we get to it—in the new section 27, sorry, of our amendments to the Registration of Deeds Act, you will see that what we are doing is that we are filing the particulars of the trust in a Form N. So Form N as in “November” is where we file the particulars of trust and if we look at the Schedules that we have set out, you will see Form N, which is on page 57 of the marked up Bill, we take notice and the following particulars are there: name of settlor, legal owner, address, name of trustee, address of trustee, name of beneficiaries, address of beneficiaries, et cetera. So we speak to the particulars of the trust in summary form by the use of this. So to answer the hon. Senator's question, yes, the beneficiary will be identified.

I want to remind that we are not at all capturing constructive trusts, implied trusts, only express trust for land. So, because a trust can be created by a circumstance, by a circumstance of law, a constructive trust can be created where you did not necessarily have an expressed desire to do it. We are not capturing any of that, we are only going for the position of declared trust in land, which is why wills, et cetera, are not included in this. Because you could change your will and, again, as a concept of law, that is at best an interest in specie. It is not a vested interest, it is a contingent interest dependent upon a number of circumstances which the lawyers in this room would be well familiar with. So that would take care of the definition of beneficial ownership.

Sen. Hosein asked a very important question and it is about the delivery into escrow and out of escrow, and permit me to explain that. And I thank the hon.

Senator for his attention on that. The Law Association last night raised the question about execution into escrow and out of escrow. We obviously do not want to stop the existing valid practice of delivery of instruments into escrow. If I could explain that.

In a transaction, you have a deed. So it is a deed between Faris Al-Rawi and Saddam Hosein. In this deed, let us assume that I am selling a property to the hon. Senator. What will happen is, I may need to be the sole signature or he may need to be joined on if there is restrictive covenant. For instance, he will be signing— if it a leasehold interest, he will be signing, it may not be a freehold interest, right? What happens in that position is that sometimes there are circumstances which separate the days on which the parties signed the contract. It may be that they have a disagreement, they are working out a settlement of a claim; it may be that somebody is abroad; it may be that they are awaiting certain moneys to be paid into the transaction.

So if this document between Faris Al-Rawi and Saddam Hosein is executed, and it cannot all be executed at the same time or it is contingent upon certain factors, this deed dated, the 9th day of June, 2020, between Faris Al-Rawi and Saddam Hosein, Faris Al-Rawi may sign on the 10th of June, but let us say Saddam Hosein cannot sign until next year, because we have certain steps to take. The attorney-at-law would deliver the document into escrow, he would put an endorsement at the top of the deed that says, this deed was delivered into escrow on so and so date. And when Sen. Hosein signs the document and we have dealt with the matters between us, it is delivered out of escrow on a particular date.

What we did, and you will see it in the amendments further under the registration of deed system, we specifically carved out the delivery out of escrow. When you deliver a document out of escrow, the date of the deed then kicks in. So

this deed is dated this X day of Y, it kicks in on the delivery out of escrow.

11.30 a.m.

Now what does the out of escrow do? The out of escrow does two things: it is at that point the stamp duty clocks starts, and it is at that point that the registration clocks starts. So you can execute an agreement into escrow—it might be an escrow for two years—it is delivered out of escrow and at that point, stamp duty clock starts to run, and at that point, the registration clock for a maximum of 24 months starts to run. So we have been very careful to carve that out and I thank the hon. Senator for allowing me. It does not apply to the clause that we are amending now but you will see it in the further amendments that we make under the registration of deeds system. Now this is critical because it is tied into why we want a notice of execution, or the contract. It provides sight for the first time into the many, many, many ways that you can legitimately avoid and sometimes perpetuate frauds. This allows a transparency for the first time.

Madam Chairman: Sen. Mark and then Sen. Seepersad.

Sen. Mark: Madam Chair, we now have nine indexes—

Mr. Al-Rawi: Eight.

Sen. Mark:—not so?

Madam Chairman: Eight, Sen. Mark.

Sen. Mark: The question here is this— I think Sen. Vieira raised the point and I am not happy with the response that I got from the Attorney General, and that has to do, Madam Chair, with the capacity and the ability of the Registrar General's office to deal with these indexes given the fact that people are experiencing so many challenges, as we speak, in getting documentation out of that office. So now we have gone from four to eight. So I think it is something that the AG has to

address again so he can give the public and those who utilize the Registrar General's office some degree of assurances.

The other area I wanted to clarify, is registration still compulsory? And secondly, is the AG guaranteeing the accuracy of the registry records so that all these fees that are being proposed, Madam Chair, in terms of contract, variation, et cetera? These things have to be based on information and records coming out of the Registrar General's office. So I would like to ask the Attorney General whether the Government is going to be guaranteeing accuracy of the records to avoid unnecessary litigation between those parties that are engaged or involved in any agreement in the event that there is some defects in the title that is being transacted? So I just wanted to clarify these matters with the Attorney General.

Sen. Seepersad: Thank you, Madam Chair. I would just like the Attorney General to advise if the agreement for sale will carry stamp duty because that will, in effect, mean there is double stamp duty for both the agreement and the conveyance? And, Madam Chairman, if you would allow me—

Madam Chairman: Sure.

Sen. Seepersad:—to permit me to make an intervention in reference to what the hon. Attorney General said in his winding up of this matter in relation to my practice:

For the record, I am employed in an administrative capacity with the law firm J.D. Sellier & Company who is heavily involved in conveyancing matters. Also, my contribution was based on the revised version of the Bill that was circulated prior to the debate.

Thank you, Madam Chairman.

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

Sen. Deonarine: No.

Madam Chairman: Okay. Attorney General.

Mr. Al-Rawi: Sure. Permit me please to address Sen. Seepersad, and Madam Chair, I thank the hon. Senator for the declaration. I did so on her behalf on the last occasion because we have had a conversation about it and it is entirely nothing untoward there. Madam Chair, so right now you can register an agreement for sale only if you put it as a deed of agreement because people were called upon to pay stamp duty, \$25 stamp duty, because there was no manner in which you could have registered a contract otherwise. There was no register for contracts. So people had to develop a system where they would take the contract, call it a deed of agreement, and pay a \$25 stamp duty on it. So that is where we had this anomalous situation of calling an agreement, a deed. It is called a deed of agreement and you see we have referred to it when we get to the Registration of Deeds Act.

So it is not uncommon for people to want to register their contracts for sale, their agreements for sale. They do that. The only way that they could have walked into the door to turn a key was to create a deed because you only have a register of deeds unless it is specifically created. So what we are doing right now is we are removing that circle and square equation, and we are allowing for first time to have a lawful ability to register a contract without stamp duty. There is no stamp duty. In any event, the stamp duty that you may have been exposed to under a deed of agreement was only \$25. The stamp duty on your conveyance depends upon whether it is land only, it is commercial, it is residential, and then there are exceptions for stamp duty, and stamp duty runs in the thousands of dollars or may be free. It may run in larger sums of money depending upon how the transaction is worked.

Remember, it is entirely lawful to avoid a situation if it is clearly done, and

many people have legitimately done that. They do complex agreements. They are buying a property, they decide to use a chattel receipt because they are really buying things on the premises; they list out the items; there is money attributed for that position. What you pay on is the land value as assessed by the Board of Inland Revenue. The Board of Inland Revenue assesses that. So there are very legitimate ways—look, we had an example by Sen. Mark on the last occasion which the hon. Minister of Finance had to address because it was just all wrong, and that is an example of how badly people can get it wrong, where they take something on the face of it and they twisted it into something else. So to answer the point, no stamp duty. You could still do your deed of agreement if you wanted to. Maximum stamp duty is \$25. No stamp duty because we are creating for the first time a register for contracts or agreements for sale, both under the common law which is what we call the old law and the RPA, or the Real Property Act.

With respect to Sen. Mark's positions, there have been challenges with respect to the Registrar General's functionality, and those are driven—I thank the hon. Senator for his observations because he raised it in the point of informing the public and I thank him for that opportunity. The challenges have been because nobody fixed the situation. They did not replace the hardware, they did not license the software, they did not bring modern software, they were operating in the old South Quay offices. Can you imagine that our Property Information Management System, which is called PIMS, which is how your online access searches right now—PIMS is operating on Windows XP. People do not even have Windows XP. IBM had to fly in a specialist team of old people, who knew what Windows XP was, to fix the register when it crashed. So what we did is we brought in a brand new set of hardware and software, and we transferred all the information from PIMS into PBRS, all the data, all the metadata. That system is already recovered

because we are testing the PBRs system, as we must, to make sure the users are comfortable with it, that all the bugs are worked out. That is how you bring the solution in.

So yes, there have been problems. More importantly, is there a solution? Even more importantly, when will that solution be put into place? Month of June. Right now with final product at latest in the month of September, if not before.

Madam Chairman: Hon. Senators, the question is that clause 3, be amended, as circulated, by the Attorney General.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Madam Chairman: There are two sets of amendments. We will treat with the proposed amendment circulated on behalf of Sen. Mark first. Sen. Mark.

Sen. Mark: Yeah well, Madam Chair, I in fact sought to address a number of issues raised by the Law Association and I have not been able to rifle through the Attorney General's changes to 15B, 15C, 15D, 15G, 15H, as well as Part VIII of the legislation. Now, I would like to indicate that once I am able, based on the AG's submission, to be convinced that these proposed changes to clause 4 as recorded in 15B, C, D, G and H as well as Part VIII have been comprehensively settled with the Law Association, I am prepared, once I am convinced, that these have been settled to revisit these amendments because I have drawn these things up in defence of what we were advised given the radical changes that were being proposed by the Attorney General. So, Madam Chair, I will want the Attorney—

Madam Chairman: I hear you, Sen. Mark, but there is also the second part, (c).

Sen. Mark: Well, that is almost constant.

Madam Chairman: Okay.

Sen. Mark: Wherever the Government has “negative” and if there is no “negative”, I am proposing that any order be subject to an affirmative resolution of the Parliament.

Madam Chairman: Sen. Vieira, you wanted to say something before—because what I propose to do is to ask the Attorney General to address specifically what is raised by Sen. Mark so that I can treat with Sen. Mark’s amendments. Sen. Vieira.

Sen. Vieira: Just to echo my concern about section 15 which is already with the agreement for sale, I can wait after but it might be easier for the AG to deal with both. AG, I really think with the registration of the agreements, by making them compulsory, is going to have a knock-on effect on title. It is going to make the whole system more cumbersome. Now, as you pointed out earlier, as it stands, when a purchaser enters into an agreement, he gains a beneficial interest. In fact, in one of my first experiences with conveyancing, it was with an agreement for sale where somebody—because he had an agreement for sale—had acquired an insurable interest, he went into possession before and he burned down the property. So you have a beneficial interest, but not every agreement will result in a deed, not every agreement the transaction is going to close. And by registering the agreement I think you are in fact creating a lien on the property and now that is going to then have to be resolved.

Now, this is going to impact practice because astute lawyers are going to make sure that all agreements for sale are subject to contract. They will not close the agreement for sale until they are satisfied that the agreement is good. They are not going to sign any agreement for sale until they are sure of that because otherwise the whole lien thing could put the transaction in jeopardy. Lawyers and banks have to be risk-averse. And so, what they are going to do now because of

this is that they are going to set up all kinds of systems and controls to avoid that risk, and I suspect that that is going to likely impact the ease of doing business, and it is also likely to—it may be an undesirable side effect in terms of title become more cumbersome.

Madam Chairman: Sen. Sobers.

Sen. Sobers: Thank you, Madam Chair. Madam Chair, just to follow on a bit of what Sen. Vieira was saying and then I will just come quickly to my point as well too. Unfortunately, I respectfully disagree insofar as I—

Madam Chairman: You disagree with whom?

Sen. Sobers: With some of what Sen. Vieira was indicating.

Madam Chairman: Sure.

Sen. Sobers: Just to clarify. You see, the thing is if the agreement for sale—based upon my understanding of what occurs here and even in Guyana as well too—is not registered, what you can have is a system where persons usually enter into several agreements for sale for the same property, and the only way an individual may very well be aware that this property is possibly being sold 10 times over is if there is some register that they can go to, to see that the contract has been registered. So I mean that is my understanding of it, and I think it works extremely well in Guyana. The only thing I saw here in clause 4(d), section 3(2) where we are saying that the agreement for sale has to be registered, I was just wondering whether or not—in Guyana they also allow for an affidavit to be done and registered as well too by both the vendor and the purchaser for the agreement for sale indicating that they basically have in fact prepared this agreement for sale and it is a knock-on effect to what is contained within the agreement. I do not know if that was something that could have been included as well. That is just my comments.

Madam Chairman: Well no, I think it is a lot that the Attorney General has to answer. Let him answer and then Sen. Hosein would pose his question. Attorney General.

Mr. Al-Rawi: I thank my colleagues. I think Sen. Vieira put the crux of this issue of contract squarely on the table, and I thank Sen. Sobers because he also put the other crux on the table with competing interest here. So let us look at it this way. As originally drafted in this Bill, not with the amendments yet to be considered that I am proposing which are based in almost totality from the Law Association's discussions with me—and let me put on the record that I have spoken with the members of the C-4 Committee. What is the C-4 Committee? It is the conveyancing subcommittee of the Law Association. There are some people who for these amendments very clearly and there are some people who are not for these amendments, and some of the people who are not for these amendments have raised the issue that Sen. Vieira has just raised, which is the concept of the affected title, astute attorneys using agreements subject to contract—it is what I call the Hamel-Smith proposal. Timothy Hamel-Smith and Ashmead Ali were proponents of those structures—and it is borrowed really from the kinds of practices that I would have seen and perhaps Sen. Vieira would have seen, because when we engage in complex transactions that is exactly what we use.

If we are using a complex structure, you are buying a going concern, you are buying shares, you are buying assets, you are buying intellectual property rights, and you are buying real estate, you usually do a transaction agreement which is multifaceted, and those transaction agreements are sometimes preceded by a memorandum of agreement, a memorandum of understanding, a heads of agreement, a letter of intent which is always subject to contract. So it is not unknown. It is what prudent lawyers in complex transactions use because it is the

best way to protect your client. But borrowing from that, protection of the client, is exactly where these amendments go.

The original Bill said come up with your contract, let the Registrar consider if you should get it or not, extend the time, establish an order of priority, et cetera. We did away with all of that. What we did, you have a contract which is an agreement for sale, you enter into your agreement for sale, you are going to take somebody's money because to make a contract binding, you need consideration. What is consideration? Money. The only type of consideration that is not money is in different structures like forbearance which is money's equivalent, or natural love and affection which is a deed of gift, or deed of settlement. So we have different types of consideration. Of course, court orders are consideration as well. But because we are taking people's money, and because they get a beneficial or equitable interest, for it not to be known is like closing your eyes and praying somebody "doh roll up" and asks for specific performance of the transaction. Worse yet, on the Real Property Act side because then you are at risk of a caveat, you are at risk of an objection. If you are bringing lands under the RPA, sections 22 onward and if you are filing a caveat, section 125 of the RPA provides a mechanism for you to say, "Hold on, do not do that."

We are playing Russian roulette largely with poor people, unsuspecting people who do not even know what putting money into escrow means. What is that? You do not give the vendor the money in his hand. You give the lawyer or a stakeholder, a bank, to hold it as a stakeholder, or what we call "in escrow". Protection measure number one: attorneys-at-law are to handle agreements for sale; nobody else. Protection number two: attorneys-at-law must inform their clients, under this Bill, of the fiduciary obligations that they have. Protection number three: attorneys-at-law must be registered with the Law Association, have

a valid practising certificate, not struck off the roll; protection further, they must be registered with the FIU.

Statistically, only 700 lawyers are registered with the FIU, but we have 5,000 lawyers on the roll because the one-off transactions that advocates engage in, they are not in the business of real estate so they are not FIU registered. State attorneys who engage in private practice with permission are similarly not registered with the FIU. So there is a massive Wild West that is going on. What we propose here is number one, the RG simply records an event, a contract for sale. In the amendments that we will propose, you will see we are not asking that the contract for sale is in conformity with the conveyance again. We are not asking for that. We are not asking for the contract for sale to stick on the title. We have introduced the concept of purging the title. Let me explain that. Insofar as an agreement for sale creates a beneficial interest, whether it is registered or unregistered—the risk is when it is unregistered. You have 10 people with 10 agreements for sale, you do not know who is first in time, they are all dated the same day, money passed the same day, who comes first? Worse yet, you have a four-year period of limitation. Worse yet, you might have a 12-year period of limitation if it is done in a different structure.

So for 12 years your title is jumping up and up and up, subject to specific performance if it is not completed; subject to damages, if it is; worse yet, subject to being set aside, and the umpteen matters in the court where you are asking the Registrar General to set aside the transaction on the basis of fraud because of an abuse of your beneficial ownership. The vast majority of cases that ended up in court are on that basis. So what we did, we put in a system of purging the contracts—it is in the new sections 15C, 15D, et cetera. And what we say is, you enter into an agreement for sale—it is recorded—you want to mutually end the

agreement for sale which is by the way 95 per cent of what happens in practice, you end it mutually. We ask for both parties' signature, the attorney's signature. We obviously need to now contemplate the position where parties do not agree to terminate, and it is where they do not agree to determine that the concept of a *lis pendens* arrives. What is a *lis pendens*? In Latin it means the thing that is pending which is in reference to a court action. So this is the concept of "you are blocking the title" because there is a beneficial interest. What we say here now is that if you terminate an agreement unilaterally, you say, "Look, I am out. I do not agree to be bound again"—as people do all the time, right? That is where the risk of the title comes in now.

If it is unregistered, you have a risk that you blind to, you just do not know. You are just praying that you fall within the category of being a bona fide purchase of a value without notice. You are praying it is not fraud, but if you register it, it becomes known. We say that if you are exercising a unilateral termination, tell the other side first. Serve them. We set aside, in these amendments that we will come to, how you serve, proof of service. We then say that if the person upon whom you serve, the thing saying "Listen, I am out," that person has the right now to enter an objection. Where do we get this concept of objection from? The Real Property Act, sections 22 to 25, where you are bringing lands under the RPA, allows you a process of objection. The objection is deemed to expire automatically after 30 days if you do not take action in court.

When you deal with the other side of objections under the Real Property Act, section 125 of the Real Property Act jumps in. You can file a caveat and then you must take action. What we propose here is if you are in the situation, which is where the concept of the clogging of the title comes in, we say, you get served with a notice of termination, you file that service of notice of termination with the

Registrar General, we then make the Registrar General serve you with that as well, we then provide for you to enter an objection, we then say that your objection shall be valid for 90 days, three months. Why? Because the pre-action protocol process requires that you engage in pre-action dance. The time frame for a pre-action protocol of this nature is 28 days. Remember, you are in the agreement for three months already, eh. Standard agreement for sale is usually 90 days. You could put it to 120, two years, whatever you want. So you in that title, you are looking at the position, you pay down your money, nobody knows about you, you have a beneficial interest, you may have even gone so far as to insure the property because the agreement for sale allows you to do that and you know the law. The law of trust applies that if the property burns down, you still have to buy it. So most people when they enter into an agreement for sale, go and get an insurance coverage or assign the benefit of the insurance policy from the vendor to the purchaser. That is standard law.

But what we do here, if you object to the termination, we allow for the 90 days, you have 90 days to take your action in specific performance. For the first time we will be turning on the lights in the entire room. Everybody will know “who in de dance”. You will have to elect if you really want the property. If you want the property, the action in court is called “specific performance”. I want to specifically perform the contract by which I undertook to buy the property. What is the precedent? RPA, sections 22, 23, 24, 25. What is the precedent? Real Property Act again, sections 125, 126, 127. Does it fit within the Civil Proceedings Rules? Yes, it allows for the pre-action dance. Does it allow for the purging of the interest? Yes, it does. For the first time ever the title is clear, otherwise it is Russian roulette. Now, these observations came about in the circumstance of Ashmead Ali’s submissions and Timothy Hamel-Smith’s

submissions, if I would say so. There is one further point.

We specifically dis-apply the need for a contract. What does that mean? In this law we are saying, you do not need a contract for sale. If you look at 15B as in “Bravo”, and 15D as in “Delta”, you do not need a contract for sale in a number of circumstances: a mortgage, a partition, a deed of settlement—a mortgagee sale, the exercise of a power of a receiver, a trustee, because a trustee may be acting under a bond instrument, or under the trustee’s ordinance. We have set out all of the commercial factors that you do not need a contract. So we are actually in a very narrow zone. The contracts that we are asking for are contracts for the expressed sale of land for the smallest of people to protect them for the first time in the history of Trinidad and Tobago, exactly as we protect them under the Real Property Act.

Since 1887 the Real Property Act has allowed for the entry of caveats and has allowed for the entry of objections, the latter being when you bring in lands under the Real Property Act, and the former being when you enter caveat for lands that are already under the Crown grant system. So most respectfully, this is the coverage that we are giving and the rationale why.

Madam Chairman: Sen. Vieira, just briefly please because a very expansive explanation was given.

Sen. Vieira: Thanks Chair, but this is a fundamental point. So AG, I get it. I know that there is a lot of fraud and problems with land, and it is poor people that most often get caught up. I have two streams running in my head. One is that we are changing a system and once you fix it in law, it is going to be hard to unfix it.

12.00 noon

Now, it occurs to me that one of the simpler ways of resolving this fraud

thing is from the time you pay a deposit, make that deposit a requirement in law that it be held in escrow by a financial institution. That way when time comes for completion, you know that the transaction is good because if there is a problem, the searches will reveal that the property was not there to be conveyed or whatever.

The other thing is before all the 15s is “shall, shall, shall, shall, shall”, you must do this. Before we reach the “shall” with the consequences for failure to do, can we not do a trial run? Can we not test it, get the data, make this a voluntary system while we see how this actually plays out? You were holding off on proclamation because we wanted to see how this PDRF is going to work out. But you know, you always talk about data driven, data driven, a lot of stuff we do not really have data on. Before we set it and fix it in law, I think that there are things that we can do to tweak that would give the assurances and guard against the fraud that you are seeking to protect and yet at the same time not have these unintended consequences, these potential knock-ons.

Mr. Al-Rawi: Madam Chair, thank you, hon. Senator. Let us dive to the heart of it. There is fraud. Let me explain where the fraud is. Right now, people practise lawfully the system of avoidance of contracts. Lawfully, if we take—well, let us talk to data. We know the Financial Intelligence Unit tells us that we have \$22 billion at highest we have seen so far in suspicious transactions in one year. We know that. In another year, we had \$13 billion in fraud as well.

However, if we were to say test the system—you know, I want to respectfully say, every time an amendment to land law has come up—1982, 1986, 1987, 1988, 2000, 2002—the “one set ah people yuh sure to see kicking up storm and brass is the lawyers”. So we have left the system of registration, the Torrens system since the 1800s and the common law since Crown Colony days. How is that working for us? Fraud, theft, litigation, avoidance, criminality. In the civil

asset forfeiture “explain your wealth” legislation, I can tell you right now that we have matters about to go to the court to treat with circumstances exactly like this. We are talking about hard drug money put into land. Cannot go into particulars but I assure you what I am saying is right, so we have data.

We know we register 27,000—I said it in my piloting—deeds per year; that includes deeds of mortgage, deeds of gift, deeds of everything. Conveyances are by far less than 27,000. We know that we have a strict system for mortgage bills of sales. We registered 21,000 mortgage bills of sales. In other words then, we protect the loan for \$15,000 on a car by mandatory registration, seven days to register it, go to court after seven days and we have nothing for land and we are talking about contract. If we were to say take the stakeholder approach, the stakeholder at a financial institution, number one, you still have the beneficial interest. Number two, the stakeholder, usually in the contracts that we would draft—I am sure you have drafted them as have I—the stakeholder is indemnified by the parties and the stakeholder agrees not to hand over the money until there is a resolution and that resolution inevitably is in a court action unless the parties agree to the resolution. So we are not changing the risk, we are still shooting in the dark because that beneficial ownership is still on the outside waiting to be action four years or 12 years, so it still is Russian roulette in that zone.

But when we get now to the voluntary system, let us look at the voluntary system, the trial run, we have a great example of that, it is called the Real Property Act. The reason why only 20 per cent of our land title is in the Real Property Act is because it is voluntary. How did that work for the country since 1887 to now? Did not work. The Registration of Titles to Land Act comes in. Let us look at this law in the way that parliamentarians should look at it. What is the mischief? The mischief is fraud. The mischief is taking people’s deposits. The mischief is in

allowing them to have the freedom to manage their property, their property is their money, their money translates to a land transaction. We are excluding the contract provisions for the vast majority of otherwise safely regulated transactions: mortgages, partitions, court orders, receivers, trustees, et cetera. We take all of that out, no contract for that. But we are saying the contract for sale as a knowledge factor that somebody was contracting to treat with a property is known for the first time so that your title risk becomes much cleaner because you know with certainty but we do not need to look any further than the Real Property Act.

The Real Property Act allows for the caveats to be introduced and the objections to be introduced and we have just borrowed from the exact system. There is a balancing exercise to be achieved. What have we done to make it easier in terms of ease of doing business? We have used forms, Form A onward. B, it is a recording of a matter. C, we have the voluntary version of it right now which we preserved, it is called the deed of agreement. People register their deeds of agreement right now. It is a contract for sale which they label as a deed, they pay their \$25 stamp duty so we have the voluntary system right now but it does not work. It has not stopped an ounce of fraud in this country. So we have the voluntary system already, it is there in the law.

What could explain the rationale for difficulty in acceptance? Okay, title. Beneficial interest. Does the beneficial interest exist whether the agreement is registered or unregistered? Yes, it does. Whether you register your contract or you do not register your contract, you still have the beneficial interest. It is still actionable. The only difference is it is Russian roulette in the dark because if you have it unregistered, “yuh” waiting 12 years to see if you still have the property. Those of us who have practised heavily in mortgaging and conveyancing know what it is like to carry professional indemnity insurance, constantly looking over

your shoulder to make sure you did the transaction right, waiting for that knock on the door when one of your colleagues calls and says, “Ay, Faris, ah checking ah title, ah spotted X”, and you start to sweat instantly because you were diligent, you pull up your records, you bind them, et cetera. For the first time, we are putting the lights on in the room and I can respectfully see no obstruction to the logic of protection in this regard because we have provided the remedy. The remedy is purge after 90 days, take your interest to court if you want specific performance, have people aware of the transaction.

And what I will say, I did a poll in terms of data amongst a number of conveyancers in the industry and I asked them: how many of you have had transactions where the deposit was lost or you went to court? If you were to give it to me as a percentage, the vast majority reported that 98 per cent of their transactions have no difficulty at all. In my own practice of 24 years in mortgaging and conveyancing and complex matters such as this, I have seen deposits lost twice and been to court five times. That is 24 years of complex practice and I declare I worked for almost every bank in Trinidad and Tobago and handled complex arrangements this way.

So I hear the positions. It is why we spoke to the Law Association for four years. There are members on that committee who have expressed articulate views. When Mr. Hamel-Smith was contributing, he said this is simply a matter of contract and we know the style of contract because we do it all the time. So I respectfully do not think that we have got to the problem yet. Voluntary system, been there, done that, deeds of agreement. Voluntary system, RPA registration, been there, done that, not working.

How do we stop fraud? Last point I will make. It is a matter of record that we are rolling out the Registration of Titles to Land Act which answers

somebody's question about title guarantee, Sen. Mark. Sen. Mark asked whether the Government will be guaranteeing title. The Government guarantees title under the Registration of Titles to Land Act because it is an absolute title guarantee system. First step, we take all the RPA transactions and we load it into the Registration of Titles to Land Act, then we roll out the system of land adjudication and tribunals beginning in Tobago this year and we fix the Tobago title. In these structures, the Registration of Titles to Land Act will go to a mandatory system.

But I want to remind on the word "shall" because you have mentioned it Sen. Vieira, all the "shalls" in section 15, those "shalls", when you read the "subject to" means that they "may", because the "shall" is subject to disapplication, the "shall" is subject to agreement, the "shall" is subject to everything else and the offences that we produce—what are the offences? You had 24 months to apply for an extension of time. Let me repeat that. You have 365 days multiplied by two minus seven—seven, I am using the mortgage bill of sale time frame—you have that amount of time more than a mortgage bill of sale to file a form. To file a form? What could be so complicated about that?

Madam Chairman: Attorney General, I think that you have gone as far as you can go with your explanation to Sen. Vieira. I think I have to remind Senators that clause 4 with which we are dealing starts at page 4 of the Bill and ends at page 54. So I am going to ask, Attorney General, if you can just simply respond to what Sen. Mark has raised with respect to his amendments. I believe that he has said that his amendments were premised on the Law Association's original comments and he wants to know if they have been dealt with in your amendments.

Mr. Al-Rawi: Thank you, Madam Chair, and for especially allowing the latitude on this complicated area of law. I thank you, I will not indulge you much further.

Number one, we have addressed every single one of the Law Association's

comments. Number two, is there unanimity in the C-4 Committee's comments? No. Have they expressed that into writing? No, they have not. We received only one written correspondence of clause by clause and then after that, we had I think four Zoom meetings for up to five or six hours per time, the last one was much shorter and then we went through clause by clause with the Law Association. We have met muster with all of their observations.

Number one, no quasi-judicial functionality for the Registrar General, that is gone. Number two, preserve the "into escrow" and "out of escrow" arrangement. Number three, put the contract, the agreement for sale or the deed as to when it is fully executed. That preserves the concept of counterparts and multiple agreements. Number four, remove the sanction and the requirement for consistency between the contract and the deed, that is out. Number five, put the disapplication provisions, specifically, do not require a contract for sale for the matters listed in section 15B(8) and section 15D for the host of them: mortgages, partitions, settlements, sale by receiver, sale by mortgagee. All of those factors which we have set out including very importantly sale by public bodies: HDC, LSA, Ministry of Agriculture. Why? Because they are all regulated otherwise. Financial institutions because they fall under the mortgagee sales of a system of the supervisor in the Central Bank having oversight over these transactions. So that was their point on disapplication.

They then went on to ask us to treat with a very important point.

Madam Chairman: Attorney General.

Mr. Al-Rawi: I am answering it.

Madam Chairman: I know you are but could you just treat with it systematically?

Mr. Al-Rawi: Well, that was 15B.

Madam Chairman: Right, so that was 15B, Sen. Mark. 15C, Attorney General.

Mr. Al-Rawi: I am exactly—if you want me to refer to the clauses, I will.

Madam Chairman: No, no, just one second. Yes, I do because I am trying for us to get your amendments as well.

Mr. Al-Rawi: I understand. Okay. So I have dealt with 15B. When we deal with 15C—so Sen. Mark did not propose an amendment to 15A, he asked for 15B. I have just dealt with 15B which is the registration of contracts for sale. I have dealt with the positions that I have just put onto the record. I have deleted the quasi-judicial functions and I have done the disapplication in section 8 and very importantly, in subsection (9), we deal with the concept of leases because the Law Association said to us, “Look, dis-apply a contract for a lease”, but they recognized, “do not do it in the circumstance where it really is a sale”. Why? Sale of a property in Woodbrook is by a lease, the sale of David Collins lands in Goodwood Park is by way of a lease, it is a leasehold interest. So subsection (9) says where the rent or premium amounts to a purchase price, that you will still have a contract for that. It is to take care with the whole concept of land ownership by leasehold interest.

15C, which Sen. Mark has flagged, we deleted all of 15C and that was where we had this whole concept of termination and the Registrar making a determination of who is in priority and having a quasi-judicial function. What we did in the new 15C is we set out that procedure I defined a little bit earlier which is where you mutually agree to terminate, you unilaterally agree to terminate. In the unilateral, you serve notice on the other side, you then file with the Registrar, the Registrar files with you, you have 90 days or three months to put in an objection—sorry, the objection goes in, you have 90 days for the objection to stay alive. The objection stays alive only if you take it to court. Specifically, we defined what service will

be in the subsection (8). Specifically, we preserve your existing rights at law under contract, under equity and under general provisions of law.

15D, which Sen. Mark has referred to, is the execution and registration of registrable documents. Registrable documents are effectively all documents but it is very important, therefore, to dis-apply and if you look to sub (ii), we have taken every single one of the recommendations from the Law Association, especially when you get down to deeds of agreement, family arrangements and then when we get to S as in Sierra, the “sale or other disposition of land” and we put in all the financial institutions, the mortgagees, the receivers, the positions, et cetera.

We are very importantly, as Sen. Rambharat reminds me, in 15D, we have removed the requirement in sub (3) to there being a need for consistency with the agreement. In other words then, there is “nobody gonna check yuh conveyance” against the agreement for sale to make sure that word for word it was the same, that is out.

We have importantly as well in 15E which Sen. Mark—no, he has not referred to 15E so I will not touch that yet. That is the notice of registrable points. Sen. Mark has not touched 15F which is the registration and when I come to my amendments, I will address those.

Sen. Mark has raised 15G as in golf. 15G is the applications for extension of time. Very importantly, we have preserved the delivery into escrow and out of escrow because the time, as Sen. Hosein had raised in a different part, the time runs from the point when it comes out of escrow and I thank Mr. Frank Bunsee in particular for raising that with me last night.

We then get to Sen. Mark referring to 15H as in hotel, the duty of the attorney-at-law to inform of obligations. But we thought that this was so critical a point that the lawyer should be put on a positive obligation to tell the client—right

now, clients can fire their lawyers. A client in the middle of a transaction can say, “Look, ah pay yuh, gimme meh deed, it is executed” and off they go. We felt it important to put a positive fiduciary obligation upon the lawyers to inform the client in writing and have the client sign as acknowledging that. Far too often in the disciplinary committee and in court, unsuspecting clients roll up or wicked clients roll up and say the lawyer did not tell them something. This is now out of the door. So 15H we thought was important.

Sen. Mark asked for us to delete the fines and offences, Part VIII. If we look to Part VIII, we are skipping over Part VI which is a very important point which I will come to because we have removed the concept of equity. Part VI, when I get a chance to explain that, is critically important as to why we accepted the Law Association’s recommendation. But Part VIII, “Fines and Offences”, the Law Association asked us to treat with that differently and we did. We were originally harmonizing the offences in line with the Stamp Duty Act where there is a calculator, there is a formula. “If yuh late by x month, by y month, it goes up.” That worked really well to force people to pay stamp duty. We have instead said if the lawyer, for very limited circumstances, does not do certain things—you had a whole 24 months to do what you had to do, you did not apply, you are really in negligence at this point, all that we are saying is half of your scale of fees. It might be \$3,000, it might been \$4,000, there is a non-contentious calculator for scale of fees, back in 1998, 1999, long outdated but we have gone to half of the scale of fees, it is only fair. Secondly, where the party is acting for himself because there are circumstances where the client has possession of the deed, the person must be subjected to a fine. I remind that under the Summary Courts Act and laws in general, a fine is stated to be a maximum sum, you may get zero because you could have a reprimand and discharge.

Sen. Mark then dealt in new section 29 with changing subject to affirmative resolution as opposed to negative resolution. What we have done, Madam Chair, is that we have put that you may by order amend the Schedule. Why? It is a form. We wanted the ease of having the forms amended because they are simply coversheets to the information transactions. I hope I am back on track now.

Madam Chairman: Hon. Senators, so the question is that clause 4—

Sen. S. Hosein: I did not get a chance. You had acknowledged me but—

Madam Chairman: Go ahead.

Sen. S. Hosein: AG, I have a few queries with respect to this particular clause and they start from the definition of “public body”.

Madam Chairman: We are treating with the amendments as proposed by Sen. Mark which is to delete certain parts of clause 4 and once we treat with Sen. Mark’s circulated amendments, we are going to deal with the amendments circulated by the Attorney General.

Sen. S. Hosein: Yes. This is in direct relation to 15B please, Madam Chair.

Madam Chairman: Yes.

Sen. S. Hosein: AG, I am seeing at 15B and 15D, you are exempting public bodies and a list was given of what a public body is from the registering their agreement for sale and also the requirements under 15D which is registration and execution. I want to know why we are exempting public bodies from that list because, at the end of the day, by procurement, you could dispose of public property to a private individual.

The other point I want to raise is you created an exemption for certain documents, for example, deed of release, deed of rectification, confirmation mortgage—

Madam Chairman: Which 15?

Sen. S. Hosein: This is also 15B. Most of my comments are 15B and 15D.

Madam Chairman: Right.

Sen. S. Hosein: This only seems according to the drafting to attach to common law conveyances. What about a memorandum of mortgage or a memorandum of discharge or a memorandum of partition? Whether or not this as drafted here would capture those documents that will fall under the RPA system?

The other issue I have is that I believe you said that 15B now does not make it mandatory that the agreement for sale executed and the deed of conveyance be consistent. Based on my reading of your proposed amendments, it seems as though that still remains, however it does not apply to the conveyances—sorry, the gifts, settlements, mortgages and those other things.

Now, my question is: What will be the time limit for the registration of those documents that does not fall within what we will now—those registrable documents but not applying to sections 15B and 15D? I do not know if you understand. Okay, so 15B and 15D all applies to registrable documents but there are exemptions that it does not apply to deed of gifts, mortgage, surrenders. Right? Those documents that it does not apply to now, what will be the time limit for the registration of those documents? And that is the extent of my queries, please.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you. Again, sharp observations, I thank Sen. Hosein for them. The rationale for “public body” in 15B and in 15D is specifically for disapplication, so that you do not have to register a contract for the sale of what happens there. Because the public bodies are subjected to audit, Auditor General, the public procurement and disposal of property legislation and the Central Tenders Board at present, because they are subjected to those things—even though you are correct, you are taking public property and you can dispose to a private

individual—that happens all the time in HDC. It is a public apartment going to a private individual by way of a lease or by way of a mortgage or by way of a rent-to-own so there are dispositions there. Ministry of Agriculture, agricultural lands are all done that way. They are done by Cabinet decisions pursuant to the Commissioner of State Lands’ functionalities under the State Lands Act, et cetera. So we have dis-applied public bodies in 15B as in Bravo because it would be extremely cumbersome but there is a method of supervising them in law right now. However, all of those instruments, be it an HDC deed, be it a private individual’s deed, they must be registered within 12 months with a further extension of 12 months, after that, knock on the door of the court. So that the HDC cannot be hiding a transaction again to say well they gave John Brown a property. No, we want to see it registered. Now, that is the rationale for the public bodies.

The hon. Senator asked about the time frame for documents. So registrable documents, registrable instruments, they are all to be registered within 12 months or you apply for an extension, another 12 months after that, ask the court. So there is the time frame specifically for those.

You also asked the question about whether this applies to RPA in the disapplication, so even though we do amendments to the Real Property Act at clause 6, what we did here in creating the contracts—

Sen. S. Hosein: What page you are on?

Mr. Al-Rawi: In the marked-up Bill, we do Conveyancing and Law of Property Act at clause 5 which is the common law so that is not relevant to our discussion, we do disapplication there, but you also have page 64 of the marked-up Bill, that is where we do the amendments to the RPA and then in 61A, if you look at clause 6:

“On or after the commencement of...”—this—“...transfer...shall be preceded by a contract or agreement for sale or other disposition of that

interest.

- (2) A contract referred to subsection (1) shall be in accordance with sections 15A, 15B and 15C of the Registration of Deeds Act.”

So we clawback. So all of the memorandum of transfer, memorandum of lease, all of those things clawback in terms of disapplication to 15B as in Bravo and 15D as in Delta.

Sen. S. Hosein: I think—major query. Once we were able to capture it in the RPA system—

Mr. Al-Rawi: Yes, and for the record, we have also done it to the Registration of Titles to Land Act.

Madam Chairman: So hon. Senators, the question is that clause 4 be amended as circulated by Sen. Mark.

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

Madam Chairman: Attorney General, we will now move on to the amendments as circulated on your behalf. I am proposing because the amendments are extensive, so let us treat with your amendments for clause 4 A, B, C at this stage.

A. In paragraph (b)(i), insert in the appropriate alphabetical sequence:

“authorized clerk” means a person who is authorized in writing by an Attorney-at-law, in respect of a specific transaction in the form set out as Form C in the Schedule;

“interest in land” means the lawful right as owner of land to hold the legal title to the land;

“mortgage” includes any charge on any property for securing money or money’s worth; and

Chap. 25:04 “public body” means any department or division of-

- Chap. 29:05
- (a) a Ministry;
 - (b) the Tobago House of Assembly, established by section 141A of the Constitution;
 - (c) a Municipal Corporation established under the Municipal Corporations Act;
 - (d) a Regional Health Authority established under the Regional Health Authorities Act;
 - (e) a statutory body, responsibility for which is assigned to a Minister of Government;
 - (f) a State-controlled enterprise;
 - (g) a Service Commission established under the Constitution or other written law;
 - (h) the Parliament;
 - (i) the Judiciary; or
 - (j) the Office of the President;”;

B. In paragraph (b)(iii), in proposed subsection (2A) delete paragraph (e), and replace with the following:

“(e) instrument of trust,

but does not include-

- (f) a contract or agreement for the sale or other disposition of land including a Deed of Agreement

for sale; or

- (g) such other document as the Minister may by Order prescribe.”;

C. In paragraph (d)-

- (a) in proposed subsection (2), delete the words “both in law and equity and replace with the words “in law”; and
- (b) insert after subsection (2), the following new paragraph:
 - “(3) The provision of section 32A of the Conveyancing and Law of Property Act shall continue to apply.”;

D. In paragraph (i)-

- (a) in proposed section 15A-
 - (i) in subsection (1)(g)(i), delete the words “and time”; and
 - (ii) insert after subsection (2), the following new subsection:
 - “(3) A contract or agreement for the sale or other disposition of land may be done by way of Deed of Agreement.”;
- (b) in proposed section 15B –
 - (i) in the marginal note, by inserting after the word “contract” the words “or agreement”;
 - (ii) in subsection (1) by inserting after-
 - (A) the word “contract”, the words “or agreement”;

- (B) the words “thirty days of”, the word “full”;
- (iii) delete subsection (2) and replace with the following subsection:
- “(2) Where a contract or agreement for the sale or other disposition of land are exchanged or executed in counterpart, one document complying with all the requirements of 15A(1) and reflecting the contents of the exchanged contract or agreement, shall be registered within thirty days of full execution or, as applicable, within thirty days from the effective date of the contract.”;
- (iv) in subsection (3), insert after the word “contract” the words “or agreement”;
- (v) in subsection (4)(b), by deleting the word “Deed” and replace with the words “contract or agreement”;
- (vi) delete subsections (5), (6) and (7) and replace with the following new subsection:
- “(5) Where a contract or agreement for the sale or other disposition of land is not registered within the period specified under subsection (1), any party to the contract for sale or other disposition of land or the legal personal representative of the party or a duly authorized attorney operating under a registered Power of Attorney, may apply to the

Registrar General for the late registration of the contract or agreement for sale or other disposition of land.”;

- (vii) renumber subsection (8) as subsection (6) and in renumbered subsection (6), delete the word “(7)” and replace with the words “(5)”;
- (viii) renumber subsection (9) as subsection (7) and in renumbered subsection (7), delete all the words after the word “contract” and replace with the following:

“or agreement for sale or other disposition of land where the contract or agreement for sale or other disposition of land does not meet the requirements of section 15A(1).”;

- (ix) delete subsections (10), (11) and (12); and
- (x) delete subsection (13) and replace with the following subsections:

“(8) This section does not apply to-

- (a) the transfer of lands by gift or assent;
- (b) a grant of a lease for a term under three years;
- (c) any conveyance or other disposition of land by a public body;
- (d) a mortgage;

- (e) a deed of release;
- (f) a deed of rectification;
- (g) a deed of confirmation;
- (h) a deed of substitution;
- (i) a deed of surrender;
- (j) a deed of exchange;
- (k) a transfer of mortgage;
- (l) a mortgage debenture;
- (m) a deed of partition;
- (n) a deed of assurance;
- (o) a deed of amalgamation;
- (p) a lease;
- (q) a Deed of agreement for the sale of land;
- (r) a family arrangement in relation to land;
- (s) a sale or other disposition of land by a mortgagee for a mortgage issued by-
 - (i) a Financial Institution licensed under the Financial Institutions Act;
 - (ii) the Home Mortgage Bank;
 - (iii) the Trinidad and Tobago Mortgage Finance Company;

- (iv) a credit union registered under the Cooperatives Societies Act; or
 - (v) the Trinidad and Tobago Housing Development Corporation;
 - (t) a trustee;
 - (u) a sale or other disposition of land by a mortgagee who is a public body;
 - (v) a sale or other disposition by a receiver or liquidator;
 - (w) a deed under Court Order or pursuant to an Order in matrimonial matters; and
 - (x) such other documents as the Minister may by Order prescribe.
- (9) Notwithstanding subsection (8)(p), where the rent or premium contained in a lease amounts to a purchase price, a contract or agreement for the sale is required for registration.”;
- (c) delete proposed section 15C and replace it with the following:
- | | | |
|---|---------|--|
| “Notice of
variation or
termination of
or
agreement for | 15C.(1) | Where a registered contract or agreement for the sale or other disposition of land is varied, including date of completion, or contract terminated and all the parties to the contract or agreement for sale or other disposition of |
|---|---------|--|

sale or other land agree to the variation or termination

disposition of land either party or their Attorneys-at-law shall file with the Registrar General a notice, in the form set out as Form E1 in the Schedule, of the variation or termination within thirty days of the variation or termination.

- (2) If the parties to the sale or other disposition of land do not agree to the mutual termination of the registered contract or agreement for the sale or other disposition of land, the party or his Attorney-at-law purporting to terminate the contract and wishing to record the purported termination or rescission, shall serve on the other party a notice of termination or rescission in the form set out as Form E2.
- (3) Within thirty days of service of a Notice under subsection (2), the party wishing to record the purported termination or rescission shall file with the Registrar General in the form set out as Form E3 in the Schedule, a notice that the contract or agreement for the sale or other disposition of land is purported to be terminated or rescinded, which shall be recorded by the Registrar General.
- (4) Where a party is served a Notice under subsection

- (2) and wishes to register an objection to the termination he shall do so in the form set out as E4 within thirty days of such notice.
- (5) After the expiration of three months from the receipt of a notice under subsection (2), every such notice shall be deemed to have lapsed, unless the person by whom or on whose behalf the same was served shall, within that time, have taken proceedings in any Court of competent jurisdiction to establish his title, interest, lien, or charge in respect thereof.
- (6) Either party under subsections (2) to (5) may withdraw a notice of termination or rescission or notice of objection in the form set out as Form E5.
- (7) Within fourteen days of the receipt of any notice under this section, the Registrar General shall, in writing and electronically, inform all other parties to the contract or agreement for sale or other disposition of land of the receipt of that notice.
- (8) For the purposes of this section service may be effected by-
- (a) personal service;
 - (b) registered mail; or
 - (c) publication in a daily newspaper in wide

circulation.

- (9) This section shall not operate to preclude or prevent a person from seeking any remedy available under –
- (a) any law, whether written or otherwise;
 - (b) the contract for sale or other disposition of land; or
 - (c) equity.”;
- (d) in proposed section 15D-
- (i) delete subsection (1) and replace with the following:

“(1) The Attorney-at-law who prepares a registrable document in respect of the sale or other disposition of land shall ensure that contents of a registrable document for the sale or other disposition of land relate to a contract or agreement for sale or other disposition of land which is registered in accordance with section 15B or varied under section 15C.”;
 - (ii) in subsection (2), by deleting all the words after the words “to-” and replace with the words:
 - “(a) the transfer of lands by gift or assent;
 - (b) a grant of a lease for a term under three years;

- (c) any conveyance or other disposition of land by a public body;
- (d) a mortgage;
- (e) a deed of release;
- (f) a deed of rectification;
- (g) a deed of confirmation;
- (h) a deed of substitution;
- (i) a deed of surrender;
- (j) a deed of exchange;
- (k) a transfer of mortgage;
- (l) a mortgage debenture;
- (m) a deed of partition;
- (n) a deed of assurance;
- (o) a deed of amalgamation;
- (p) a lease;
- (q) a Deed of agreement for the sale of land;
- (r) a family arrangement in relation to land;
- (s) a sale or other disposition of land by a mortgagee for a mortgage issued by-
 - (i) a Financial Institution licensed under the Financial Institutions Act;

- (ii) the Home Mortgage Bank;
 - (iii) the Trinidad and Tobago Mortgage Finance Company;
 - (iv) a credit union registered under the Cooperatives Societies Act; or
 - (v) the Trinidad and Tobago Housing Development Corporation;
 - (t) a trustee;
 - (u) a sale or other disposition of land by a mortgagee who is a public body;
 - (v) a sale or other disposition by a receiver or liquidator;
 - (w) a deed under Court Order or pursuant to an Order in matrimonial matters; and
 - (x) such other documents as the Minister may by Order prescribe.
- .”; and
- (iii) delete subsection (2), where it occurs second and replace with the following new subsections:

“(3) Notwithstanding subsection (2)(p), where the rent or premium contained in a lease amounts to a purchase price, a contract or agreement for the sale is required for registration.

(4) A registrable document made in contravention of this section shall be voidable.”;

(e) renumber proposed section 15E as section 15E(1);

(f) in section 15E, as renumbered-

(i) delete the word “submit to” and replace with the word “file with”; and

(ii) delete the words “form F” and replace with the words “Form F”;

(g) insert after section 15E(1) as renumbered, the following new subsections:

“(2) Where a notice of execution of a registrable instrument is not registered within the period specified under subsection (1), the Attorney-at-law who prepared the registrable document may apply to the Registrar General for the late registration of the notice of the execution of the registrable document.

(3) An application under subsection (2) shall be in the form set out as Form G in the Schedule, include reasons for the delay and be accompanied by the fee specified in the Schedule to the Registrar General Act.

(4) Notwithstanding subsection (1), where a registrable document is registered within fourteen days of its full execution, a Notice of execution under subsection (1) is not required to be filed and the Attorney-at-law shall not be liable to any fine under section 22.”;

(h) in section 15F-

(i) in subsection (1) delete all the words after the words “within twelve” and replace with the words-

“months of-

(a) its signing and delivery; or

(b) its delivery out of escrow.”;

(ii) in subsection (3)-

(A) delete the word “submit” and

replace with the word “file”;
and

(B) in paragraph (a), delete the word “G” and replace with the word “H”; and

(C) in paragraph (b), delete the word “H” and replace with the word “I”;

(iii) in subsection (4)(b), delete the words “for the sale or other of disposition of land to which” and replace with the words “or agreement for the sale or other of disposition of land to which the”;

(iv) in subsection (5), by inserting after the word “contract” the words “or agreement”; and

(v) in subsection (7), by inserting after the words “this Act”, the words “and the effective date when registered shall be the date of the registrable document”;

(i) in proposed section 15G-

(j) in subsection (1), delete the

words “ten months after the execution” and replace with the words “any time after the execution or delivery out of escrow”;

(ii) in subsection (2) -

(A) in paragraph (a), delete the word “I” and replace with the word “J”; and

(B) in paragraph (b), delete the words “eleven months from the date of execution” and replace with the words “twelve months from the date of execution or delivery out of escrow”;

(iii) in subsection (3) delete the words “Form set out as Form J” and replace with the words “form set out as Form K”;

(iv) in subsection 4, delete the words “of ninety days” and replace with the words “not exceeding twelve months from the date of

the grant of the extension.”;

- (j) by renumbering section 15H as 15H(1) and inserting after section 15(1), as renumbered, the following section:

“(2) Where an Attorney-at-law informs a client in accordance with subsection (1), the Attorney-at-law shall ensure that the client acknowledges the information in the form set out as Form L in the Schedule.”;

- (k) in proposed section 15I-

- (i) in subsection (1)-

- (A) insert after the words “executed” the words “or delivered out of escrow”;

- (B) insert after the word “Act” the words:

- “or such other period as the Minister, may by Order, prescribe.”;

- (ii) in subsection (2) delete

the words “shall be liable for the registration” and replace with the words “, legal personal representative, grantee or settlor shall be liable for the non-registration”;

- (iii) in subsection (3), insert after the word “purchaser”, the words “, legal personal representative, grantee or settlor”;
- (iii) in subsection (4), delete the word “L” and replace with the word “M”;
- (iv) in subsection (6), delete the words “ninety days or such longer period as the Registrar General may think fit.” and replace with the words “twelve months.”;
- (v) in subsection (7), delete the words “at least one

month before the expiration of an extension.” and replace with the words “for such an extension”;

- (vi) insert after subsection (9), the following new subsection:

“(10) Where a Deed of Conveyance in respect of land that is subject to a mortgage was executed by the mortgagor or other person entitled to the equity of redemption and registered prior to the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land Act), 2020, and a

Deed of Release is executed and registered by the mortgagee or his successor in title after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land Act), 2020 all the estate right, title, interest, claim or demand that the Deed of Release is effectual to pass shall be deemed to vest in the person entitled to the equity of redemption at the time of the execution of the Deed of Release although such person is not a party to the Deed of Release.”;

- E. Delete paragraphs (k) and (l);
- F. In paragraph (l) –
- (a) in proposed section 22 delete all the words after the words “penalty of” and replace with the words-
- “ half of the fee applicable to the consideration set out
Chap. 90:03 in Schedule 1 of the Legal Profession Act.”;
- (b) delete proposed section 23 and replace with the following:
- “Failure to comply 23. (1) A party who fails to
with section comply with section
15C(1) or 15I(1) 15C(1), (2) or (3) is liable to a
penalty of five thousand dollars.
- (2) Subject to section 15I(6) and
15I(7), a party who fails to
comply with section 15I(1) or
(2) is liable to a penalty of five
thousand dollars.”.
- (c) in proposed section 27-
- (i) in subsection (1), delete the words “and Stamp Duty” and
replace with the words “, Stamp Duty and the
Registration of Title to Land”;
- (ii) in subsection (2) delete all the words after the word
“2020” and replace with the words “or such other date as
the Minister, may by Order, prescribe every trustee if a

trust in existence prior to the commencement of that Act shall file to the Registrar General the particulars of the trust in the form set out as Form M in the Schedule.”;

- (iii) in subsection (3) delete the word “submit to” and replace with the word “file with”;
 - (iv) in subsection 4(f), insert after the words “trustee;” the word “and”; and
 - (v) in subsection (5)(h), insert after the words “trustee;” the word “and”;
- (d) delete proposed section 28 and renumber proposed section “29” as proposed section “28”;
- G. In paragraph (m) delete the words “the Schedule is amended” and replace with the words “in the Schedule”;
- H. In Form C in-
- (a) SECTION I- REGISTERING ATTORNEY, insert after the words “NAME OF ATTORNEY_____” the words “E-MAIL ADDRESS”;
 - (b) SECTION III- DOCUMENT INFORMATION, “insert after the words “Between_____ and _____” the words “E-MAIL ADDRESS of parties_____”;
- I. Delete Forms E to N and replace with the following new forms:

“FORM E1

REGISTRATION OF DEEDS ACT, CHAP. 19:06

UNREVISED

(Section 15C(1), and 154(1))

NOTICE OF VARIATION OR
TERMINATION OF CONTRACT FOR SALE
OR OTHER DISPOSITION OF LAND

To: REGISTRAR GENERAL

TAKE NOTICE that the contract for sale or other disposition of land
executed on _____ between/among

(Date of Execution)

_____ and _____

(Name of Parties)

registered in and accordance with section 15B of the Registration of Deeds
Act, Chap.19:06 _____ on

(Registration Number)

_____ was varied/terminated on _____

(Registration Date)

(Date of Variation/Termination)

with/without written agreement.

FILL OUT WHERE APPLICABLE

•The contract for sale or other disposition of land was varied as
follows:_____

_____ (State

Particulars of Variation)

The contract for sale or other disposition of land was terminated in accordance with _____ of the contract for sale or

(State clause)

other disposition of land or by mutual agreement.

Date

Signature of Attorney-at-law

(Name of Parties)

Name of Attorney-at-law and
BAR Identification Number

Note: a written agreement varying or terminating the Agreement for Sale or other disposition of land signed by both parties should be attached if done in writing.

FORM E2

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15C(2), 154(1))

SERVICE OF NOTICE OF TERMINATION OF

CONTRACT FOR SALE OR OTHER

DISPOSITION OF LAND

UNREVISED

To:

TAKE NOTICE that in respect of the contract for sale or other disposition of
land executed on _____ between/among

(Date of Execution)

_____ and _____

(Name of Parties)

registered in accordance with section 15B of the Registration of Deeds Act,
Chap.19:06 _____ on _____

(Registration Number)

(Registration Date)

The agreement was terminated by me on _____

(Date of Variation/Termination)

without your agreement and a notice of termination/rescission will be filed
with the Registrar General.

Date

Signature of Party

Served on _____ on _____

(Name and signature)

(Date served)

at _____

(Address of service)

FORM E3

UNREVISED

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15C(3), and 154(1))

NOTICE OF UNILATERAL VARIATION OR
TERMINATION OF CONTRACT FOR SALE
OR OTHER DISPOSITION OF LAND

To: REGISTRAR GENERAL

TAKE NOTICE that the contract for sale or other disposition of land executed

on _____ between/among (Date of
Execution)

_____ and _____

(Name of Parties)

registered in and accordance with section 15B of the Registration of Deeds
Act, Chap.19:06 _____ on

(Registration Number)

_____ was varied/terminated on _____

(Registration Date)

(Date of Variation/Termination)

without written agreement.

FILL OUT WHERE APPLICABLE

•The contract for sale or other disposition of land was varied as
follows: _____

_____(State
Particulars of Variation)

The contract for sale or other disposition of land was terminated in
accordance with _____ of the contract for sale or

(State clause)

other disposition of land.

Date Signature of Attorney-at-law

Name of Attorney-at-law BAR Identification Number

Date Signature of Party

FORM E4

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15C(4), 154(1))

NOTICE OF OBJECTION TO
TERMINATION OF CONTRACT FOR SALE
OR OTHER DISPOSITION OF LAND

To:

TAKE NOTICE that in respect of the notice the termination of the contract
for sale or other disposition of land executed on

_____ between/among

(Date of Execution)

_____ and _____

(Names of Parties)

registered in accordance with section 15B of the Registration of Deeds Act,
Chap.19:06 _____ on _____.

(Registration Number) (Registration Date)

Notice of the termination was notified by _____

(Name of party who filed notice of termination)

on _____ without my agreement

(Date Notice of Termination was filed under 15C (2)).

I object to such termination.

Date

Signature of Party

FORM E5

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15C(5), 154(1))

NOTICE OF WITHDRAWAL

UNDER SECTION 15C(5)

To: REGISTRAR GENERAL

UNREVISED

TAKE NOTICE that in respect of the notice the termination/variation of the contract for sale or other disposition of land executed on _____ between/among

(Date of Execution)

_____ and _____

(Names of Parties)

registered in accordance with section 15B of the Registration of Deeds Act, Chap.19:06 _____ on _____.

(Registration Number) (Registration Date)

Please note that I wish to withdraw my notice of termination or variation/notice of objection dated _____

(Date Notice of Termination/variation or objection).

Date

Signature of Party

FORM F

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15E)

NOTICE OF EXECUTION OF REGISTRABLE DOCUMENT

To: REGISTRAR GENERAL

TAKE NOTICE that _____ and _____

(Names of Parties)

executed a registrable document, _____

(Type of Document)

on _____ at _____

(Date of Execution)

(Place of Execution)

for which a contract for sale or other disposition of land described in the
Schedule below for _____

(Consideration)

was previously registered as _____ on _____.

(Registration number) (Date of Registration)

SCHEDULE

DISCRIPTION OF LAND

Date

Signature of Attorney-at-law

Name of Attorney-at-law and

BAR Identification Number

FORM G

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15E(3))

To: REGISTRAR GENERAL

I, _____ ,

(Attorney-at-Law)

having prepared a registrable document between/among

_____ and _____

(Names of Parties)

which was executed on _____

(Date of execution)

in respect of _____

(Type of Instrument)

in respect of _____

(Type of Instrument)

and for which a notice of execution was required to be filed on

(Date notice of execution required to be filed)

hereby apply for an extension of time to register the notice of execution of a
registrable document.

The reason for the late registration is as follows:

.....
.....
.....

Date	Signature of Attorney-at-law

Name of Attorney-at-law	BAR Identification Number

FORM H

REGISTRATION OF DEEDS ACT, CHAP. 19:08

(Section 15F(3)(a))

NOTICE TO REGISTRAR GENERAL FOR

CESSATION AS ATTORNEY-AT-LAW ON RECORD

To: REGISTRAR GENERAL

TAKE NOTICE that in accordance with section 15F(3)(a) of the
Registration of Deeds Act, Chap. 19:06,

I, _____, was (Name of
Attorney)

retained by _____

(Name of former client)

in respect of a registrable document, for which a Notice under section 15E
was filed on _____

(Date of Notice)

and for which an application was filed under section 15G(1), have ceased to be the Attorney in record for this matter.

Date	Signature of Attorney-at-law
	Name of Attorney-at-law and BAR Identification Number

FORM I

REGISTRATION OF DEEDS ACT, CHAP 19:06

(Section 15F(3)(b))

NOTICE OF CLIENT OF OBLIGATIONS ON CEASING TO BE
ATTORNEY ON RECORD

To: _____ of _____

(Name of Client)

(Address of Client)

Take notice that having ceased to be the attorney on record in respect of the matter _____ as _____

(Date of Registration)

(Registration Number)

such cessation having been registered on notified to the Registrar General on _____, please be informed of

(Date of Notice to Registrar General)

the following obligations relative to that registration:

1. You are required by section 15F(6) to register the registrable document which was delivered to you on _____ and is in your possession

(Date registrable document delivered to former client)

within twelve (12) months of its signing and delivery.

2. The Registrable document is to be accompanied by the cover sheet and prescribed fee of _____.
3. If you are unable to register the document within 12 months of its signing, you are required to apply under section 15G for an extension of time and pay the prescribed fee of _____.
4. If an extension is granted, you are required to register the registrable document within the limit of the extension given under section 15F(4).
5. If you fail to register the registrable document as required by 15I(1) you are liable to the penalties set out in section 23.

Date

Signature of Attorney-at-law

Name of Attorney-at-law and

BAR Identification Number

Note: This Notice is required to be served on the client in duplicate and an endorsement of proof of service or registered post included A duplicate with

the endorsement of service should be filed as an Appendix to Form E

FORM J

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15G(2)(a))

To: REGISTRAR GENERAL

I, _____ ,

(Name of Attorney-at-Law)

having prepared a registrable document between/among

_____ and _____

(Names of Parties)

which was executed on _____

(Date of execution)

in respect of _____

(Type of Instrument)

and for which a notice of execution was filed on/delivery out of escrow on

(Date notice of execution/ delivery out of escrow)

which is required to be registered on or before _____, (Date
of expiration)

being twelve (12) months from the execution date/date of delivery out of
escrow, hereby apply for an extension of time to register the registrable

document.

_____ which is required to be registered on or before

(Date notice of execution/ delivery out of escrow)

_____.

(Date of expiration)

being twelve (12) months from the execution date/date of delivery out of escrow, hereby apply for an extension of time to register the registrable document.

The reason for the late registration is as follows:

.....
.....

_____	_____
Date	Signature of Attorney-at-law

	Name of Attorney-at-law and BAR Identification Number

FORM K

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15G(3))

NOTICE OF EXTENSION OF PERIOD FOR REGISTRATION

TAKE NOTICE that having received an application from-

(Name of applicant)

on _____ for the extension of time for the

(Date of application)

registration of a registrable document being a _____

(Type of Instrument)

between _____ and _____

_____,

(Name of Parties)

between which was executed on _____.

(Date of Execution)

I have approved the extension of the period of registration to a further period
of _____.

(Period of Extension)

Date

Registrar General

FORM L

REGISTRATION OF DEEDS ACT, CHAP 19:06

(Section 15H(2))

ACKNOWLEDGEMENT OF INFORMATION

PROVIDED BY FORMER

UNREVISED

ATTORNEY-AT-LAW

I, _____,

(Name of Former Client)

acknowledged that I have been informed by

_____,

(Name of former Attorney-at-law)

my former Attorney-at-law on record for the sale or other disposition of land of all obligations, timelines, fees and offences which apply to the transfer of the land.

Date

Signature of former client

FORM M

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 15I(3))

APPLICATION UNDER SECTION 15I(3)FOR LATE REGISTRATION
OF OF REGISTRABLE DOCUMENT

To: REGISTRAR GENERAL

I, _____, _____,

(Name of applicant) (Vendor/Purchaser/duly authorised attorney/

legal personal representative)

_____ of

(Profession)

(Address)

in accordance with section 15I(3) of the Registration of Deeds Act, Chap. 19:06, wish to apply for the late registration of the registrable document in respect of the land described in the Schedule below between/among-

_____ and _____

(Names of Parties)

executed on/delivered out of escrow on _____ and which is/was required to _____

(Date)

be registered before _____

(Date of Expiration/Agreed Completion Date)

pursuant to section 15G.The reason for the late registration is as follows:

.....

SCHEDULE

DESCRIPTION OF LAND

.....

Date

Signature of Applicant

Name of Applicant and Identification

Number/BAR Identification Number

FORM N

REGISTRATION OF DEEDS ACT, CHAP. 19:06

(Section 27(2))

PARTICULARS OF TRUSTS IN EXISTENCE

To: REGISTRAR GENERAL

TAKE NOTICE of the following particulars relative to trusts in existence prior to the Commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) Act, 2020.

Name of Settlor(s)/ Legal Owner(s) _____

Address of Settlor(s) Legal Owner(s) _____

Name of Trustee(s) _____

Address of Trustee(s) _____

Name of Beneficiary(ies) _____

Address of Beneficiary(s) _____

Name of any other party to the trust _____

Address of any other party to the trust _____

Description of land affected by/subject to the trust*

Date of Trust Deed/Instrument _____

Date

Signature of Trustee

Name of Trustee and Identification Number

*Make reference to a deed/instrument of title; if there is no written deed or document particulars of essential terms and conditions e.g. consideration, obligations which can be attached in an Appendix.”.

J. Renumber paragraphs (h) to (n) as (j) to (m).

Mr. Al-Rawi: Thank you for the guidance, Madam Chair. So the Registration of Deeds Act is the subject of clause 4. What we are doing here and Members will see it in the amendments circulated and also in the marked up version of the Bill where we have inserted what the amendments look like, we have effectively accepted the recommendations coming from the Law Association.

12.30p.m.

I will again for the record say because I know they are paying attention. Some of the Members agree to their—to have made submissions subject to their general reservations, some of the Members. So I am not saying that this is all hunky-dory with everybody in the committee. It is not. There are some who are very much in favour and there are some with reservations.

So, Madam Chair, what we propose here is the insertion of certain

definitions. First of all, “authorized clerk”, because we are now narrowing the filing of documents to the attorney or his clerk, we borrow from what we do in the Judiciary. Your clerk cannot just be anybody rolling up at the registry and say, “Ah come tuh file something”. That is how fraud happens. God rest his soul, a beautiful human being, Garnet Mungalsingh, who all of us knew well. Garnet Mungalsingh as a stalwart practitioner in San Fernando, he has been the subject of so much fraud in his name, where people rolled up with deeds purported to be his deeds in his lifetime, after he passed away. And they presented themselves as clerks and their registered deeds. There are umpteen transactions in that regard, where people have been defrauded of millions of dollars of money.

So what we do, is we say the attorney—because now we are saying that the attorney must be registered, practising certificate, et cetera. The attorney will tell the registry in writing and prove that this is your authorized clerk. What does that treat with? It treats with the case where the lawyer has died. The clerk no longer works for the person. The clerk is perpetuating a fraud. There are lots of clerks who engage in matters, take money under the label that the lawyer is doing the transaction and they are just guilty of fraud. The Trinidad and Tobago Police Service has umpteen examples of that. So that is where authorized clerk comes in. Very importantly, Madam Chair, interest in land means the lawful right as owner of land to hold the legal title to land. You will note we are not dealing with the equitable owner in land. Why? Specifically because, the debate that we had with the Law Association was, we want to provide, and the Government agrees, that when you execute your transaction, when you pay the deposit, your equitable interest is clinched. Because if we did not do that, it is at that point we would be radically transforming the profession. We are not doing that. We are simply

saying your legal document needs to be registered that is all. We are making sure that the transaction immediately springs into effect in equity.

Let me remind you, in the registration, in the RPA, the Real Property Act, that is not the case, eh. In the Real Property Act, your equity and your law do not come into effect in some circumstances until registration. Obviously you can argue you have an equitable interest on the payment of money, and take an action in equity elsewhere. And that is how lawyers have managed to do things like file statements of charges before they register an RPA mortgage. They file the statement of charge instantly, even though you could argue that the interest has not crystalized until it is registered. So the equity does prevail. We specifically are not affecting the law of equity in any circumstance whatsoever. All that we are saying is take that deed that is hiding in your drawer for inexplicable reasons of fraud and go down to the registry and file it. That is all that we are saying.

And very importantly, we then go down to the definition of “mortgage”. In a mortgage we have taken the definition of “mortgage” from the Conveyancing and Law of Property Act. We have harmonized it with all of the other legislation, the Real Property Act, et cetera.

Now, there are wide definitions of “mortgage”. It is true that a mortgage includes a conveyance. Because a mortgage is a conveyance of the legal interest, as opposed to its equitable interest. So we have harmonized the definition of “mortgage”. Because we are going to use mortgage when we disapply it from the contract or the registration cycle.

“Public body”, I have just explained why we are doing that. There is a different regime to manage public bodies. We then go, Madam Chairman, to B. B is, “does not include...”—Okay. So B, we were asked by the Law Association

to—right. We wanted to make sure that a registrable document captures all of the dispositions of land. That is the first part.

A conveyance under section 10 of the CLPA, Conveyancing and Law of Property Act, an instrument under the Real Property Act, deed of gift, deed of trust. Deed of gift or deed of settlement, that was where the old section 18 was. Under section 18, you have to register those instruments within 12 months, otherwise they are not effective. So we park them here. What we are removing, by deleting section 18, is the \$2,000 maximum fine. We are now putting it down to \$200 only, and there is no discretion. You just apply.

The instrument of trust came in because of a recommendation from the Law Association, and we accepted that position. So you would see us referring to that in (e). In paragraph (b), we get to the insertion of instrument of trust.

We have then gone on to say what is not included. And here is what I call the circle. We are saying that it does not include a contract or agreement for the sale or disposition of land. Why? Because if you required registration of a contract for a contract, then you would be in a constant circle. Where do you start? So we had to just take it out, to disapply that. So that is why we have put in the contract or agreement for sale of land and we have included the deed of agreement. Why? Because people still do the voluntary side of registering their contracts, via a deed of agreement.

We have also, on a recommendation of the Law Association, put in a catch-all to say that you could include. So because practice will tell us what ought to be excluded as the instruments come into attention, it is an easy fix. It is by way of order. And that way, we allow for easing of business and instruments by a simple order, which is permitted under our laws.

We then go, C:

“...delete the words ‘both in law and equity...’”

This is a critical, critical amendment. What we are doing here, Madam Chairman, we are doing two things. Number one, we are only saying that every registrable document shall be registered to be valid and effectual in law. We are not saying in equity. In section 16 of the RPA Act, no Conveyancing and Law of Property Act, I believe it is, it is law and equity for—sorry, section 18. It is law and equity for deeds of gift and deeds of settlement.

What we are doing here, based upon discussions with the Law Association we said we only want to make you have to register the hidden document in your drawer. We do not disturb the fact that the title passes on equity. Because, otherwise we would be turning the profession on its head. Very importantly, subsection (3), if I could just explain that, which is in the last part of C, this is the concept of what we refer to in law as feeding the title. What does that mean? Section 32A of the Conveyancing and Law of Property Act specifically says—you need to follow me on this one—where you have a conveyance registered, and it was not yet the subject of a registered deed of release by the bank. So you are buying a property. Your lawyer does a conveyance, the bank lawyer released the property. Your lawyer saw the release executed in escrow pending payment. The moneys were paid. You go off and you register your conveyance, for “yuh cyah convey something yuh doh have”, because the bank did not release it yet in law. Because that happens in law for other section 32A of the Conveyancing and Law of Property Act had the concept of being able to register the mortgage after the conveyance. And when you register the mortgage after the conveyance, it feeds the title. In other words then, it backfills as if the mortgage was registered first, the deed of release, and then the conveyance happens.

So what we did here, we specifically preserved the concept of feeding the

title. That is a big, big, big point, because it maintains the practice exactly the way we have it in law right now and in actual conveyancing practice. So, Madam Chairman, I think you took me up to C and those are the amendments up to C.

Sen. Mark: Madam Chairman, I would like to suggest that on page 3, B—

Madam Chairman: Of the amendments?

Sen. Mark: Yes, of the AG's amendment, so you have B and then you have (e), (f) and (g), are you following? Wherever a:

“...Minister may by Order prescribe.”

I am suggesting, with your leave, an amendment. So I am suggesting with your leave that that be subject to an affirmative resolution, with your leave.

Madam Chairman: Sen. Mark, that is noted as we proceed because I cannot break up the voting on this entire clause.

Sen. Mark: I know.

Madam Chairman: So it is noted. All right?

Sen. Mark: Madam, I know we are still on 15. If I can go on page 5 with you?

Madam Chairman: We are not there as yet. We are not on page 5 as yet. We are still on page 3 of the amendments.

Sen. Mark: Okay, okay.

Madam Chairman: So, Attorney General, we will move on. Any other questions please on A, B and C thus far? So we will move on now to D. Attorney General, D spans quite a few pages so perhaps we can go to D, up to sub (9), on page 5. Would that help you?

Mr. Al-Rawi: As you please, I am in your hands.

Madam Chairman: So we will deal with D on page 3 up to page 5, just before we go on to 15C(1).

Mr. Al-Rawi: Okay, thank you, Madam Chair, again these amendments spring

from our discussions with the Law Association. Effectively, in the first draft of the Bill, we were requiring, when we were looking at the priority of contracts, the time was relevant. Why? Because we had borrowed the priority from the Real Property Act, and when you go to the Real Property Act they endorse the time you present your instrument for registration. Now that we are no longer allowing for any priority or quasi-judicial function, the Registrar has nothing to do other than accept it. It is in registrable format, only in form. Accept the instrument and put it on the record, that is it. So, the deletion of the “and time” is the first one in 15A. What we are doing there, is, the Law Association asked us to preserve the ability for people to still do their agreements for sale by way of a deed of agreement. So we accepted that and we inserted:

“(3) A contract or agreement for the sale or other disposition of land may be done by way of Deed of Agreement.”

In 15B, as in Bravo, they asked us to harmonize the fact that some people—terms of art, a contract or agreement. Why? Because you may not enter into a formal agreement for sale, you may have a multipart contract which is more complicated than not. So we have used the terms as recommended by the Law Association to have both contract and agreement.

Very importantly, we are taking off this whole concept of time frame, 30 days and all of these things. That would have been the quasi-judicial function. We accepted that we could have simplified it, and we have inserted this very important word “full”. “Full” is in reference to the ability to have parties execute in multiple situations, and really, you may have a five-party contract, four people may execute. It is only fully executed when the fifth executes. Add that on the fact that they may be abroad. They may be signing in different circumstances. So we accepted the Law Association's recommendation that we treat with full agreements for sale,

execution.

We also accepted the Law Association's recommendations that we treat with agreements that can be done in counterpart or in multiple parts, because you can execute an agreement in seven parts, in two parts, and each one becomes an original contract per se. And then we just say well, look, one of those parts needs to be registered, because they are just parts that you hold. So that was again, a recommendation coming from the Law Association.

We corrected the small inadvertent reference to deed in 4(b) and put the contract or agreement as was required there.

We then, Madam Chairman, deleted this entire position of quasi-judicial function. You will see that is by the deletions of what was new subsections (5) and (6) in the Bill. Subsection (5) would have been the registrar within 48 hours doing something and thereafter. All of those steps are out now. We have just simplified this position.

Madam Chair, we then go into the recasting. Because we are effectively saying, “Look, you have the time frame being simple”. You apply for the extension, you get the extension. After the expiry of the extension, you go to the court. We have removed all of the things of order of priority of instruments being received and standstill arrangements. We have deleted subsections (10), (11), (12), and importantly we have accepted the Law Association's recommendation that we disapply the need for a contract in the circumstances set out in the new sub-paragraph (8), which we have discussed in looking at Sen. Mark's amendments. Everything down to financial institutions, mortgagee sale, receivers, trustees, trustee sale, sales by court order, et cetera.

Very importantly, in the subsection (9), we have made sure that if a lease is really—a leasehold interest, which is a sale of a property, a conveyance style, that

we say for that you would need the contract, and that is standard because we have different types of ownership in our system.

We then go down to—yeah, that is it. We are 15C at this point.

Madam Chairman: Sen. Mark?

Sen. Mark: Madam Chair, if you go to, let us go to page 5, before we reach 15C right?

Madam Chairman: Yes.

Sen. Mark: So you go to (t), under the—

Madam Chairman: Yes, where you have a trustee?

Sen. Mark: Yes, I do not know where this trustee is arrived from, because my understanding is that a trustee is a person who controls the property and distributes it according to the trustee. Now, we are dealing with more or less the public sector in this instance. So I am trying to understand where this trustee, which is a private arrangement, where did this come from? And I would ask the Attorney General to explain this and I would then make a recommendation for your consideration.

Mr. Al-Rawi: Sure.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Well spotted, trustee. It is not just private. It is also public. So we introduced it at the request of Ashmead Ali, largely because you have bondholders. You have—so in a bond you have a basket of assets. You may have a trustee arrangement. So let us say FCB is lending the Government of the Republic of Trinidad and Tobago money and they are doing it by way of a bond, in the bond arrangement, you will have a trustee that holds the assets to feed the bond. You may get to the point where the trustee is called upon to sell the assets to liquidate liability. And, therefore, in trustee situations like that, you did not want them to have to do a contract for sale. Why? Because they would be acting in the capacity

as a mortgagee on a sale, effectively. That is subject to wide scrutiny. That is subject to, in most instances, litigation. In some instances not. So a mortgagee sale does not have to go to court, as we all know. A mortgagee sale can be exercised by a financial institution acting under its powers as a mortgagee.

So to capture the other side of what Sen. Mark said, which is true, this would also apply to a private trustee. But we balanced that, because now you have to register the trust. A trust for the sale of land is registered for the first time ever. But we have caught everything, because you have to register the instrument. No longer can that trustee sale sit down in a drawer. So the person who is perpetuating the fraud, where you put a sham trustee in effect, if you look at the literature in complex fraud, in particular, you will see that they used corporate vehicles or they use trust arrangements to hide assets. What we do now, (a) you have a register of trust for land, (b), you have to register the instrument. And therefore, we catch the private side of the trust. I think Sen. Vieira has a question.

Madam Chairman: Before Sen. Vieira, Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chair, on an unrelated point, if you look at 15A(1)(d) it says:

“...every contract for sale or other disposition of land shall—

- (d) be signed by each party to the contract for sale or other disposition of land or his duly authorized agent;”

My question is: How do you go about authorizing this agent? Is it a simple authorization or a power of attorney?

Mr. Al-Rawi: Sure. The ability of an agent to bind principle in law under agreements for sale is well known. So this is to capture the existing law. An agent simply signs for and on behalf of John Brown. So in the agreement for sale, if I am buying a property from Sen. Vieira, and Sen. Khan is going to act as my agent,

he just rolls up and he signs for and on behalf of me. Usually what the lawyers do is they would ask for evidence of that. So that is a matter of practice. You do have the ability to do things like that by way of power of attorney, in which case people ask for it. But we had to keep the law within what the current law says. Because we do not want to disturb the common law, the hundreds of years of it, where the agent binds the principle.

Sen. Vieira: Coming back to the trustee point.

Mr. Al-Rawi: Yes.

Sen. Vieira: It is just as you were answering Sen. Mark, I remember that in unincorporated associations, for example, because they do not have legal personality, they would appoint trustees to represent them like in court or to buy property on their behalf, sell property. How does that impact on this, if at all?

Mr. Al-Rawi: Sure. All it does is that it dis-applies the contract for sale. They will have to register the instrument. Remember the mischief that we are going for is the deed sitting down in a drawer. What we are removing here now is the complexity of you have to have an agreement for sale before. Yeah? I think Sen. Deonarine had a follow-up question?

Sen. Deonarine: Thank you. Following to your response, through you, Madam Chair, if you go on to look at 15B(5) on page 14, over there it specified that a power of attorney is required. So why specify it there and not specify it in 15A(1)(d)?

Mr. Al-Rawi: Is that the old (5) or the new (5)?

Sen. Deonarine: The new (5).

Mr. Al-Rawi: The new (5). Okay, so that is a different circumstance. So in subsection (5), which was the old (7):

“Where a contract or agreement for the sale or...disposition of land is not

registered...”—within the time frame—“...any party to the contract for sale or other disposition of land or the legal personal representative of the party or a duly authorized attorney operating under registered Power of Attorney, may apply to the Registrar General for...late registration...”

This was to capture the circumstances where the thing was executed already. The first one is the law that says any agent could sign for and on behalf of a principal and bind the principal. That could be under power of attorney or general agency principles. So that is your ability to enter into the contract.

This subsection (5), is where you have entered into the contract already, you just did not register it. And now we are looking at the qualifications of the persons who have the legal authority to do these things. So we have described it differently. We did not want to disturb the existing law that an agent could sign for a principal.

Madam Chairman: Sen. Mark.

Sen. Mark: Thank you for the note on page 5, as you come down (t), (u), (v).

Madam Chairman: At (x)?

Sen. Mark: Yeah, (x).

Madam Chairman: Right, you want the usual words?

Sen. Mark: Yeah, I am talking about (x).

Madam Chairman: I beg your pardon.

Sen. Mark: Yeah in (x), (x), yeah. So the same amendment I proposed earlier.

Madam Chairman: So, it is where you have (x) right?

Sen. Mark: Yeah, yeah.

Madam Chairman: Right, so that is noted, Sen. Mark. Attorney General, Members, I think at this stage we will take the break, because we will resume with 15C and we will go through accordingly. I just remind Members that we are now

at page 5 and we have, in the amendments, I think 25 pages in all. So when we come back, we will resume the deliberations. So the deliberations of the committee will be suspended, and we will return at five minutes to 2.00.

12.55 p.m.: *Committee suspended.*

1.55 p.m.: *Committee resumed.*

Madam Chairman: Attorney General, I think we are at 15C. Can you just generally state what 15C is about?

Mr. Al-Rawi: Yes please, Madam Chair. Madam Chair, we propose—just for the ease of reading, we have deleted the old 15C and just reinserted a new one because it was neater than just trying to make amendments. The amendments to 15C are driven by the comments coming from the Law Association; 15C treats with the notice of variation or termination. It is the point that Sen. Vieira had raised earlier when we were discussing Sen. Mark's position, how one treats with a registered contract or agreement that is removed by way of mutual agreement. We have provided a form for that.

Secondly, if one party alone is purporting to come out of it, in other words then, there is no agreement, we provide for that party to serve upon the other parties the fact that he is out. Secondly, you must then be compelled to file that at the Registry. When you file that at the Registry, the Registrar then serves all parties as well. Any other party is then permitted the opportunity to file a Notice of Objection, saying, "Look, I do not agree with your position." Then they have three months—this came upon amendments that came last night with the Law Association—you have three months to take a step. The step is, go and ask the court to look at specific performance if you want. We specifically say how service is to be effected, and we provide for that in the subsection that we have added.

And then we also say, nothing affects your rights at law because you may have rights in equity, in contract, or otherwise.

In summary, I will then say this proposes therefore to turn the lights on in the room, so that you know all equitable interests in property. In the unregistered system of contracts you do not know the other equitable interest, and you are exposed to a four-year period of limitation or a 12-year period of limitation, depending upon how you have organized the contract. This allows for a certainty because it purges the interest; after three months you do not take a step, it is gone. It very importantly replicates two aspects of the Real Property Act. In the first instance, where you are bringing lands under the provisions of the Real Property Act, you have an ability to file an objection. In those instances you are only allowed 30 days to take a step. That is in sections 22 onward from the Real Property Act.

The second comparator is drawn in the formula by which you can file a caveat at any point in time under the Real Property Act, and that is beginning with section 125 of the Real Property Act. So we have borrowed from the existing law, we have harmonized it with the Civil Proceedings Rules, it allows for certainty. Again, it is to turn the lights on to everybody that is in the room and to facilitate ease of business. Those are the amendments in the round.

Madam Chairman: All right, so we move on to 15D. We move on to page 7 at D where we deal with 15D. Am I right, yes?

Mr. Al-Rawi: Yes, may I?

Madam Chairman: Yes.

Mr. Al-Rawi: Madam Chair, 15D as in Delta, is where we deal with the execution and registration of registrable documents. What we do here is we say that the attorney-at-law who prepares a registrable document in respect of land shall

register it in accordance with the 15B as in Bravo, and 15C as in Charlie. Very importantly, we have deleted the reference to the need for consistency between the instrument and the contract. The Law Association asked us to delete that saying, “Look, keep your registration, turn the lights on in the room. Don’t ask anybody to compare left hand side to right hand side.” Because conveyancing is an art, and you are permitted the ability to manage your conveyance in certain ways. You may have an assignment of the interest, you may put a nominee in the structure. All of those things are perfectly permitted within the contract parameters, and therefore we removed the need for consistency in 15D.

The Law Association also asked us to dis-apply the requirement for registration as it relates to certain transactions and we have captured that in subsection (2) by putting in all of the things that they asked for which effectively are the ability to have:

- “(a) ...lands by gift or assent;
- (b) ...lease...;
- (d) ...mortgage;
- (e) ...release;
- (f) ...rectification;...”—et cetera, right down to—
- “(s) ...disposition of land by a mortgagee...”

And in those instances, obviously, it may be a mortgagee under a financial institutions arrangement.

- “(ii) ...Home Mortgage Bank;
- (iii) ...Trinidad and Tobago Mortgage Finance...;
- (iv) ...credit union...
- (v) ...Trinidad and Tobago Housing Development Corporation...”—because HDC does mortgages as well.

We have also included:

“(t) ...trustee;”

Again, we analyzed that a little bit earlier, and this in particular with reference to bonds, et cetera, where you may have a trustee exercising a power under that, liquidators, receivers, et cetera.

We make sure to say that leases are not accepted where you are dealing with a lease that is really a conveyance, because obviously, disposition of a leasehold interest, Woodbrook properties 30-year lease, Goodwood Park properties 99-year lease, whatever it may be. That is the rationale. It is effectively keeping it in harmony with the disapplication that we do for contracts in 15B.

Madam Chairman: So we move on to E? No?

Mr. Al-Rawi: Yes, Madam Chair. So 15E.

Madam Chairman: Yeah.

Mr. Al-Rawi: Madam Chair, what we did, 15E is to capture the point where you have executed the agreement, you have executed the conveyance. Why do you want notice of execution? Because title passes on execution. So in keeping the law as it is, you pay the man the money, the conveyance was signed, the title passes. It is at this point now the world needs to know that because there may be legitimate reasons why you cannot register; stamp duties taking long, they have to go and assess the property, somebody died afterwards, a party is out of the jurisdiction, all of the legitimate reasons as to why you cannot register. But it is important to protect people against fraud, that you have this bona fide purchaser for value without notice known to the whole world, again turning the lights on in the room. So all we say, you execute your instrument, file a simple form and say, “Aye, my conveyance between Al-Rawi and Hosein, we execute it.” Why? Because you recall the earlier amendments we are preserving the law of equity.

We do not change practice in any form or fashion, and that is the rationale for the explanation here.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam Chair, I know I have to speak loudly because Hansard, they may have difficulty hearing us. AG, with respect to this particular 15E, now once you execute the deed the notice is filed in the registry that the deed has been executed. Person does not register within the 14 days, you make an application to the Registrar General. I notice on the Form G that it provided by this section that you have to state reasons for the extension that you are asking. Are we inadvertently giving the RG a power to determine an application for the extension of time? And the second question is that whether or not the RG by this section can in fact deny someone an extension of time?

Mr. Al-Rawi: May I?

Madam Chairman: Yes.

Mr. Al-Rawi: Thank you, hon. Senator. We are giving no discretion whatsoever. So all that the RG does is receive a document with a reason on it, because the extension is automatically given. So we have removed any discretion at all. What we wanted to do was to remove a very complicated and wrong aspect of the law right now. I as Attorney General, Minister of Legal Affairs, I receive hundreds of applications for registrations of deeds of gift, out of time; hundreds. And there is this very capricious system where they write to the Registrar General, and the Registrar General has to then do up a file, bring the file forward to the Minister with a recommendation to waive stamp duty, to waive late payment, et cetera.

I am told in the history of this RG in her records only one Minister of Legal Affairs has refused to register something and that person is actually sitting to my left right now. [*Laughter*] Just teasing. But the point is it is quasi-judicial and it is

unacceptable. So what we did is we removed the consideration, you want an extension of time, put your reasons on the record after the extension of time, go knock on the door of the court. But you get your full extension of time here.

Sen. S. Hosein: It is automatic.

Mr. Al-Rawi: It is to take away that discretion that is so capricious in section 18 for deeds of trust and deeds of gift.

Madam Chairman: 15F.

Mr. Al-Rawi: Madam Chair, 15F, very importantly, Mr. Frank Bunsee from the Law Association last night asked us to be very express in this delivery into and out of escrow. So, registration of registrable documents. Here is where we say:

“Subject to 15G, every registrable document shall be registered...within twelve months...”

That is your first obligation to put the legal stuff on the record. It was very important for us to say that that clock can start when you deliver it out of escrow for the reasons that I explained earlier in answering Sen. Hosein’s enquiry on the point when we were looking at the Registrar General Act.

We have harmonized again at the Law Association’s request contract or agreement, and importantly I refer you to subparagraph 7. It is a very important point here:

“(7) A registrable document executed on or after the commencement of...”—this—“Act, shall not be effectual for the creation, transfer or Conveyance of lands, unless registered...”

We are saying take it out of the drawer, register it. Notice we are saying only legal, that cross backs to the earlier points where we say, “not in law and equity”, we say, “in law alone”. And then we preserve the concept of feeding the title all of those things, but here we say:

“...and the effective date when registered shall be the date of the registrable document”

This is the crux of preserving the existing law, because when you file it, it goes back to this deed is dated, the blank day of blank. And therefore even when it is delivered out of escrow two years later, and it is filed, it is effective as at the date of the instrument because that is when the consideration passes, that is when the parties intended for it to happen. So we preserve the existing law strictly and completely. Those are the reasons for 15F, Madam Chair.

Madam Chairman: 15G. Yes?

Sen. S. Hosein: AG, 15F, I remembered the Law Association had some issues. This also deals with change of attorneys, 15F(3) it deals where an attorney-at-law no longer will be on record—

Mr. Al-Rawi: Yeah.

Sen. S. Hosein:—who would have prepared the instrument.

Mr. Al-Rawi: Yeah.

Sen. S. Hosein: Now, if you can just give an example. I prepare a document for Sen. Mark in terms of a conveyance of land, lawyer-client relationship broke down. I am no longer willing to act for Sen. Mark. That deed now is in my favour, I have a lien over the deed because he may not have paid off his fees—

Mr. Al-Rawi: Um-hmm.

Sen. S. Hosein: Can I be compelled as an attorney to hand over that instrument for registration—

Mr. Al-Rawi: Sure.

Sen. S. Hosein:—by virtue of what we are doing here, because it means that you will be registering the instrument I prepared. Whereas, the new attorney would not

be preparing a new instrument because we already filed the notice of execution.

Mr. Al-Rawi: Understood, understood. We had a lot of discussion with the Law Association about this. So, the practice is where you have prepared a document, you have engrossed it but it is not executed yet, so remember for something to be registered it must be prepared by an attorney-at-law, so you have a preparation certificate, then you execute, you do your title searches whatever. Prior to execution, i.e. nobody came and signed up the deed, they did not pay consideration et cetera, prior to execution you can be fired, the existing position is that you can be fired. What lawyers do in practice is if a client says, "Look I no longer want you to act for me." The lawyer simply says, "Well, okay, here is your money back," and they tear up the deed. Go by your new lawyer. Why? It is not right to have your name floating around as having prepared the instrument.

Sen. S. Hosein: Right.

Mr. Al-Rawi: It is very different where the lawyer has prepared the instrument and the parties have executed and it is completed in execution. Let us assume somebody died, one of the parties died after, but it was a valid conveyance because money passed, date of execution, law of equity prevails.

I can tell you as a matter of fact I have seen many transactions where clients will say to their lawyer, "Look, I want to go to another lawyer, yuh taking too long to get de deed stamped." And the lawyer says, "Well look, I just waiting on Board of Inland Revenue yuh know". They say, "Nah, nah, nah, I could get dat sorted out." At that point, yes your lien operates, the client pays you, and in this formula of law you fill out a form, you hand the person their deed, the person acknowledges that they receive it. So for the first time we are protecting attorneys-at-law because now you had to give over the deed, that is the existing position right now, because you cannot unwind it in the example I just gave you.

But for the first time we have a record for the whole world, so that the Garnet Mungalsingh example does not happen, where, God rest his soul, Garnet Mungalsingh, where his name was being used as having prepared deeds. That circumstance could never happen again because there would be a form filed at the registry where Mr. Mungalsingh as an example would have said, "I gave that deed across to the client." So this is a material improvement to practice to protect lawyers from wicked clients in particular, and also to allow clients to be protected in how they discharge their interests.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you. AG, also you raised an interesting point in that, after execution the notice has been filed and one of the parties, let us just say the purchaser, dies, in RPO for example, let us look at a joint tenancy, in RPO you would endorse the death of the joint tenant at the back of the certificate of title. So it shows that there is notice to the world that this person did in fact die. Will any consideration be given here that we have notice that a party would have died especially in those holdings where there are joint tenancies or even tenants in common? Because that will also add a level of protection because there are some—I remember there was one case in particular where they actually indicated that the person died when the person was not in fact existing. It was a fictitious person that they did a power of attorney for and indicated that the person died.

Mr. Al-Rawi: May I? So to answer the question, the existing law will prevail. We are not changing any of that. So the RPA practice all of those things happen. This circumstance of the attorney coming off the record is to make it absolutely clear that the lawyer no longer has liability. Because remember, step one, we made the lawyer inform the client of the obligations. Step two, the lawyer now says, "Here is your instrument back." He takes the notice to the client and that is filed at

the Registry. Nothing disturbs the existing practice where the transaction has not been executed and the lawyer saying, “Look yuh money back”, and keeps his deed, does not have to pass his name over. So the existing law is preserved the only thing that we are doing here is we are saying, “Here is the notice of execution.” A, if the lawyer is doing it, the lawyer files it. B, if the lawyer is not doing it and the client is doing it because you have the freedom to choose your attorney, you know where the obligation lies which is where when we get to Part VIII and the offences apply you know who you are prorating the offence to, lawyer as to half of the scale of fees, or client as opposed to his obligations for failure to register.

Sen. S. Hosein: The lawyer’s liability will always be extended until the period in which he acted. So for example, at time of execution if he continues to act there he will be liable for everything there.

Mr. Al-Rawi: As is the current law. All we do now is we shut that door on the filing of the notice.

Sen. S. Hosein: Okay.

Madam Chairman: 15G, Attorney General.

Mr. Al-Rawi: Madam Chair, 15G is the application for extension of time. And number one, accepted the recommendations from the Law Association last night to make it clear that you can have the date start when you deliver “out of escrow”; that is an important point. So you will see that in the amendments to subclause (1) in the chapeau and in the chaussure as well.

In subclause (2), similarly we are putting in that delivery “out of escrow”, and we are using the position where you can go for a maximum period of extension of 12 months from the grant of extension. So we are removing any quasi-judicial function. The Registrar does not have any exercise of discretion. The people apply for their extension of time, you know, you can go up to 24 months, 12

months in subclause (4) and it is as simple as that. After that, knock on the door of the court.

Madam Chairman: 15I—

Mr. Al-Rawi: H.

Madam Chairman: Well, 15H is really like a renumbering if you like—

Mr. Al-Rawi: No Ma'am, we have.

Madam Chairman: 15H you want to talk about (2)?

Mr. Al-Rawi: Yes Ma'am. We did amendments to 15H too.

Madam Chairman: Sure.

Mr. Al-Rawi: 15H is the duty of the attorney-at-law to inform the client of the obligations. If you look at the data coming from the Disciplinary Committee or the court, there is always this argument about, "Did the lawyer tell me what he is supposed to tell me?" And that is a two-edged position. There is a need to protect the lawyer from clients who just make it up and there is a need to protect the client from lawyers who do not discharge their responsibilities. So what we are doing in 15H is we are ensuring that the lawyer has a positive obligation which is endorsed upon Form L, and we have inserted a subsection (2) to say, where you have informed the client you want to make sure the client signs acknowledging. This is equivalent to what the banks do where they are asking for clients to sign as having received advice on the need for independent legal advice, so that you are sure you are discharging your obligations under the Legal Profession Act with a positive step of transparency. That is the rationale for 15H as amended.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you. AG, I am looking at Form L—

Mr. Al-Rawi: Madam Chair, sorry. Forgive me the CPC's Department is informing me that at page 10 "i" in the list of amendments in the proposed 15G,

where you see subsection (j), that is supposed to be “i”, not a “(j)”. Okay, so it is “i” and then “ii” not (j) and (2). Just for your records, Madam Chair.

Madam Chairman: So where would be “ii”? So “i” reads:

“(j) by renumbering section 15H as 15H(1)...”

Mr. Al-Rawi: (i) reads:

“(j) in subsection (1), delete the words ‘ten months after the execution’ and replace with the words ‘any time’...”

Right now it is at (j). Page 10 of the circulated list of amendments, middle of the page (i).

Madam Chairman: As in 15G?

Mr. Al-Rawi: Yes Ma’am. Okay, we were going down past it so, okay.

Mr. Al-Rawi: So, I was there with you until the CPC tugged my shoulder.

Madam Chairman: So it should be 15G, that should be (i) as opposed to “(j)”?

Mr. Al-Rawi: Yes please.

Madam Chairman: Sure.

Mr. Al-Rawi: Apologies Sen. Hosein, Madam Chair.

Madam Chairman: Sen Hosein, you had a question?

Sen. S. Hosein: Yes. AG, I am seeing that a standard form was given for the acknowledgment by the client to the information and instructions given by him to the attorney right. Now Form L, it speaks of “former attorney-at-law” and “former client”. Now, this section is drafted in a positive manner that it would apply to current clients and your current attorney. Why is it that the form is structured as “former client” and “former attorney-at-law”?

Mr. Al-Rawi: Because it is the current client and current attorney who are ending relationship, and therefore the notice that goes on to the register is, I am—the notice that I was your former attorney and you are now out, and you are my former

client.

Sen. S. Hosein: Is this section not applying to current relationships also? In that—

Mr. Al-Rawi: In (i)? G. H:

“15H. (1) An Attorney-at-law who is retained in relation to a sale...shall inform his client, in writing of the obligations...fees...which apply to the transfer of land....

(2) Where an Attorney-at-law informs a client in accordance with subsection (1), the Attorney-at-law shall ensure that the client acknowledges the information...set out as Form L...”

Let us look at “L”.

Sen. S. Hosein: So it contemplates a current relationship?

Mr. Al-Rawi: Yeah, that is the current. I apologize, I was looking at the firing position. “J”, “K”, “L”

“ACKNOWLEDGEMENT OF INFORMATION
PROVIDED BY FORMER
ATTORNEY-AT-LAW”

That is H(2).

[AG confers with CPC]

Yes, thank you for well spotting.

Sen. S. Hosein: Delete “former” anywhere in there.

Mr. Al-Rawi: Yes, so we will delete the word “former” on that form and “Name of Former Client” should be “Name of Client” as well, “Name of Former Attorney-at-law”, it will be “Name of attorney-at-law”.

Madam Chairman: Just one second, Attorney General, could you just tell us where you are? Just give us the page.

Mr. Al-Rawi: It is at page 55 in the marked up Bill.

Madam Chairman: No, is it dealt with in the amendments?

Mr. Al-Rawi: H(1) and (2).

Madam Chairman: Give us the page of the amendments.

Sen. S. Hosein: Page 20 of the amendments.

Mr. Al-Rawi: Page 20, Madam Chair, apologies.

Sen. S. Hosein: Form L.

Madam Chairman: Yes, page 20, Form L.

Mr. Al-Rawi: Page 20, Madam Chair, “L”, so it should be:

“ACKNOWLEDGEMENT OF INFORMATION
PROVIDED BY FORMER
ATTORNEY-AT-LAW”

We need to strike the word “former”, yes.

Madam Chairman: Yeah.

Mr. Al-Rawi: “Former”, so there delete the word “former”

“I, _____,
(Name of Former Client)”

Delete “Former”,

“...acknowledge that I have been informed
by _____
(Name of former Attorney-at-law)”

Delete “former”.

“...on record for the sale or other disposition of land of all obligations,
timelines, fees...
“

Signature of former client”

Should be “Signature of client”.

Sen. S. Hosein: AG, you should put, “Signature and/or mark of client”.

Mr. Al-Rawi: “Signature or mark”. Well, wherever signature is and you cannot do it, mark just applies. Because we dealt with that in the Registrar General’s position where we say “where your mark is to be made”. So we dealt with that in a previous amendment.

Madam Chairman: So could we move onto 15I?

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: Attorney General.

Mr. Al-Rawi: 15I subparagraph (k), Madam Chair, we are accepting the amendments of the Law Association for the transitional provisions to also factor when an agreement is delivered out of escrow or a registrable document is delivered out of escrow, and we put 12 months. We have an ability to extend that 12 months because it is a transitional. The examples of where the ability to extend the 12 months are, if you recall when companies were being continued under the Companies Act, they had the same formula of a 12 months. But to allow it to be amended from time to time depending upon the industry’s needs, we have inserted the spring board here to extend the deadline date by order. And that is to be found in the Companies Act, Chap. 81:01, as we deal with the continuance of companies in the obligation for Form 16 under the Companies Act where we went from Ordinance to Act.

We have accepted as well in I that you may have a position where you have to treat with more than just the purchaser because you might be dealing with a legal personal representative, a grantee, or settler. So what we have done is to insert those in terms. That again came from a consideration coming from the Law

Association.

We also, Madam Chair, provide for the extension to be a full 12 months. So you got 12 months in subsection (6). So you have 12 months to register and you get a further 12 months under subsection (6), giving the people who have these obligations a maximum of 24 months before they go to the High Court to get permission to register out of time, and that is in subsection (7), where you see the High Court is invoked.

What we do, importantly in subsection (10), because we can deal with a situation where the conveyance and mortgage may straddle the proclamation, a conveyance prior and a mortgage after, to preserve the law of feeding the title which is section 32A of the Conveyancing and Law and Property Act. We use the exact words from section 32A and we put it in subsection (10) so that the title may be fed both prior to proclamation and after proclamation. [*Confers with CPC*] Yes Ma'am. So that is the rationale for 15I.

2.25 p.m.

Madam Chairman: Let us deal with (e) and (f).

Mr. Al-Rawi: Madam Chair, right (e) and (f), (k) and (l).

Madam Chairman: Um-hmm.

Mr. Al-Rawi: So, Madam Chair, very importantly, we have deleted, if you look at the marked up version of the Bill, page 31, these amendments very importantly delete the subsection (2) there. Subsection (2) said:

“For the avoidance of doubt, every Deed under this section which is executed passes no title until it is registered in accordance with this Act.”

That would have been to move away from the existing practice. We specifically want the title to pass in equity as it does right now on execution, so we have removed this in deference to the Law Association's view that we should not disturb

the existing practice. We agree with that, so we have deleted that reference to an amendment to subsection 16—sorry, to section 16 of the Registration of Deeds Act.

Madam Chair, I am just saying, what I just referred to as (i) in the proof will be (k) and (l), so (i) and (j) that I have just referred to in the marked-up Bill, in the proof, will be (k) and (l) just for consistency. But the point is, it seems really simple that just deleting these words, but this is to ensure that we preserve the existing practice so that the title passes in equity at the date of the deed, the moment the consideration passes as is the normal aspect.

The other one where we repeal section 18, section 18 is where you have the existing requirement that deeds of gift and deeds of settlement have to be registered within 12 months, and there is that formula where the RG has this discretion, this quasi-judicial function, to say you will get zero penalty or maximum \$2,000 penalty. We have moved all of that. There is no discretion left. You put in your reasons, you get your full 12 months et cetera, and a further 12 months if you are applying for an extension of time, and your maximum exposure now is \$200 as opposed to \$2,000.

In (f), Madam Chair, this is in the proposed section 22, this is where we deal with the fines and offences; this is Part VIII. What we had originally was the utilization of the stamp duty formula for penalties, which is very effective in law. The Law Association felt that that was too far a reach. They asked us to move away from that, we agreed with them, because all that we really want is take the deed out of the drawer and register it. That is what we want. So what we did is we cleaved it in two. The lawyer—if the lawyer fails to seek the extensions of time, does all of these things where you have a maximum of 24 months, the lawyer will be exposed to a maximum risk of half of the scale of fees that would have been

charged, and in the case of the client, in section 23, we allow for the client to be exposed to a maximum penalty of \$5,000. This is necessary to have force of law, otherwise you will not have the obligation to file. That is for paragraph (f), Madam Chair.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: AG, just to be clear, with respect to the penalty listed in the Legal Profession Act in terms of the scale fee, is it that—because 15E, F and H are different obligations that the attorney has to comply with under this new Act, so if they do not comply with either one, is it that they are now going to be fined half of the fee for the entire consideration? Because notwithstanding, how it is structured now you would appreciate that because there are more obligations on an attorney now, they can charge additional fees based on the filing of the notices, the filing of objections, variations, whatever. Is it that they are going to have this blanket half of the consideration because they failed to file a particular document?

Mr. Al-Rawi: So, Madam Chair, the scale of fees is strict. Lawyers cannot just charge for the filing of documents. They charge for the disbursements, which are set out in the schedule, right? So they do not have general conduct charges for filling out a form. What they do is they charge for disbursements on it and they are effectively in the disbursement column. It is the same way an attorney may charge for the filling out of a return of ownership. A return of ownership is not a \$10,000 transaction. It is a \$100, if you are lucky, transaction.

So the scale of fees has not been amended since if I recall 1999. We are now in the year 2020 with 21, 22 years outside of an amendment to the scale of fees. So this is strictly regulated. And to answer your question, it is half of the scale of fees on the transaction. Scale of fees on a conveyance, scale of fees on a mortgage are well known. If an attorney is handling both the conveyance and mortgage, the

Legal Profession Act says you give them a 50 per cent discount on one of the transactions. So it is a well-known formula to the practice and the profession, and it is within keeping of what the Law Association recommended.

Sen. S. Hosein: In my view, I think it is a bit harsh, because let us just say you conducted a \$10 million conveyance and you do not file a notice of execution because that is 15E—

Mr. Al-Rawi: But it is not as simple as that. It is not that you did not file it. You did not file it—

Sen. S. Hosein:—ask for the extension.

Mr. Al-Rawi: You did not ask for the extension, you had the opportunity to do it. Lawyers have to have a strict obligation to perfect their clients' interest. Remember, we were talking about somebody's ownership of land, and somebody who is a bona-fide purchaser for value without notice can come and interrupt your title. So it is very important that we put this positive obligation on lawyers that if they are going to take people's money to do a job, do the job.

Sen. S. Hosein: Still, in my view, and just for the record, that it is a very harsh provision for attorneys and it may cause some level of persons not wanting to get into the conveyancing department or have a conveyancing practice, because you will understand now that there is a lot of liability that they can face monetarily and also sanctions by the disciplinary committee based on all of the—

Mr. Al-Rawi: These are matters of professional misconduct at law. So the lawyer's failure to do these things are in the zone of professional misconduct. So this is by far, if left up to me it would have been more. But this is, this is a very soft approach in some senses. Most attorneys do not go into conveyancing because of the sheer risk that is involved in conveyancing, because you are effectively, when you certify title, you are taking the risk on your head, which is why we get

professional indemnity insurance. For instance, when I was in practice, my professional indemnity insurance was at a minimum \$20 million. You have to cover yourself in these circumstances.

Madam Chairman: G.

Mr. Al-Rawi: Madam Chair, G is just a simple position, the schedule is amended with the words in the schedule and what we do to make life easy is we then basically replace all of the schedule aspects.

Madam Chairman: H. Sorry.

Mr. Al-Rawi: Oh Madam Chair, the CPC is pointing out we did not do subparagraph (c), which is section 27.

Madam Chairman: Well, did all of that not come under (f)?

Mr. Al-Rawi: Well, just for the record if I may?

Madam Chairman: Sure.

Mr. Al-Rawi: It did, but perhaps it was my inadvertence in not mentioning it.

Madam Chairman: Sure.

Mr. Al-Rawi: So in the proposed section 27, this is where we are treating with the amendments to the—we had in the concept of trusts, this is where we bury the anchor of trusts, we had made sure that we included the Registration of Titles to Land Act because we are about to operationalize that. And, again, we have dealt with both positions of trust both prior to the proposed proclamation and after, Madam Chair, and we deal with the inter vivos dispositions. We also make sure that to except out what we are treating with in a carefully drafted version of what trusts are. So those are the reasons for the amendments to paragraph (c) on page 12 of the position. And then paragraph (d) we are deleting the proposed section 28 and renumbering a section 29. It is just a renumbering aspect.

Madam Chairman: Sure. So in H.

Mr. Al-Rawi: Yes, Ma'am. Madam Chair, what we do in H is we are cleaning up the forms as we go straight on. So we are cleaning up all of the forms. The Law Association asked us to include, when you are capturing the information, capture the clients' information: email addresses, physical description points, so that you are sure that when we put the obligations in form, that you are capturing the current information of parties to the transaction.

We also, Madam Chair, in the other forms, we needed to amend them to include the fact that a transaction may be more than just an agreement between X and Y. It may be X, Y Z, P, Q, R. So you see, we have shifted it to make sure that it is between or among because it may be several parties. And then we have made sure to capture the signatures of parties where required, or the attorneys where required in matching up the forms as they relate to the clauses that we have amended in the circulated amendments, Madam Chair.

Madam Chairman: Any questions Members on the forms E1, E2, E3, E4, E5, F, G, H, I, J, K, L? Amendments have already been proposed to L, M, N—N yes, on page 22.

Mr. Al-Rawi: If I could? Beneficiary needs to be corrected in N as in November. It says "Address of Beneficiary(s)". It will be "ies" obviously. So you see it as above, "Name of Beneficiary (ies)". It is not an "s" it is "ies". The second place, "Name of Beneficiary (ies)", "Address of Beneficiary (ies)".

Madam Chairman: And finally J, Attorney General.

Mr. Al-Rawi: Yes, Ma'am.

Madam Chairman: On page 23.

Mr. Al-Rawi: J is the renumbering of paragraphs (h) to (n) as (j) and (m), as we have done it just for consistency.

Madam Chairman: Sure.

Sen. Mark: Page 24, Madam Chair.

Madam Chairman: Well, were we not on page 24 yet because we are not on that clause.

Sen. Mark: Okay, okay.

Madam Chairman: Yeah.

Sen. Mark: Okay.

Madam Chairman: So, hon. Senators, I plead with you now to pay attention as I put certain questions to the committee. For the first question we are going to deal with the amendment proposed by Sen. Mark. That amendment—page 3. Where after the word “Order”, delete the word “prescribe” and insert the words “subject to affirmative resolution”. And page 5 at (x) “...as the Minister may by Order” delete the word “prescribe” and insert the words “subject to affirmative resolution”.

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

2.40 p.m.

Madam Chairman: The amendments as proposed by Sen. Mark are not accepted. The question is that clause 4 be amended as circulated by the Attorney General and further amended as follows:

At page 10, at “(i)” in proposed section 15G—it would be “(i)” instead of “(j)”. At page 21, the word “former” will be deleted wherever you see it in “Form L”. At page 22, at “Form N”, it would be “Address of Beneficiary (ies)” as opposed to the “(s)” that is there.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

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

A. In paragraph (a)—

- (i) by inserting at the end of the definition of “interest in land” the word “and”;
- (ii) by inserting after the definition of “interest in land” the following definition:

“public body” means any department or division of—

- (a) a Ministry;
- (b) the Tobago House of Assembly, established by section 141A of the Constitution;
- Chap. 25:04 (c) a Municipal Corporation established under the Municipal Corporations Act;
- Chap. 29:05 (d) a Regional Health Authority established under the Regional Health Authorities Act;
- (e) a statutory body, responsibility for which is assigned to a Minister of Government;
- (f) a State-controlled enterprise;
- (g) a Service Commission established under the Constitution or other written law;
- (h) the Parliament;
- (i) the Judiciary; or
- (j) the Office of the President;”;

B. In paragraph (b)—

- (a) in subparagraph (i) in proposed section 3A-
(A) in subsection (1), insert after the word “contract” the

words “or agreement”;

(B) in subsection (2), delete all the words after the words “apply to-”, the words-

- “(a) the transfer of lands by gift or assent;
- (b) a grant of a lease for a term under three years;
- (c) any conveyance or other disposition of land by a public body;
- (d) a mortgage;
- (e) a deed of release;
- (f) a deed of rectification;
- (g) a deed of confirmation;
- (h) a deed of substitution;
- (i) a deed of surrender;
- (j) a deed of exchange;
- (k) a transfer of mortgage;
- (l) a mortgage debenture;
- (m) a deed of partition;
- (n) a deed of assurance;
- (o) a deed of amalgamation;
- (p) a lease;
- (q) a Deed of agreement for the sale of land;
- (r) a family arrangement in relation to land;
- (s) a sale or other disposition of land by a mortgagee for a mortgage issued by-
 - (i) a Financial Institution licensed

under the Financial Institutions Act;

(ii) the Home Mortgage Bank;

(iii) the Trinidad and Tobago Mortgage Finance Company;

(iv) a credit union registered under the Cooperatives Societies Act; or

(v) the Trinidad and Tobago Housing Development Corporation;

(t) a trustee;

(u) a sale or other disposition of land by a mortgagee who is a public body;

(v) a sale or other disposition by a receiver or liquidator;

(w) a deed under Court Order or pursuant to an Order in matrimonial matters; and

(x) such other documents as the Minister may by Order prescribe..”;

(C) by inserting after subsection (2) the following new subsection:

“(3) Notwithstanding subsection (2)(p), where the rent or premium contained in a lease amounts to a purchase price, a contract or agreement for the sale is required for registration.”;
and

(D) renumber subsection (3) as subsection (4); and (b) in subparagraph

(ii)—

- (A) in proposed section 4(5), delete the words “; and”;
- (B) insert after proposed section 4(5), the following new subsection:

“(6) Nothing in this Act shall affect the law with respect to part performance of a contract.”; and”.

Madam Chairman: That is at page 23. Attorney General, we will deal with A first.

Mr. Al-Rawi: So, Madam Chair, clause 5 deals with echoing the amendments that we did in the course of clause 4 into the Conveyancing and Law of Property Act. *[Interruption]*—Pardon? *[Interruption]*—No

Sen. S. Hosein: You are going to put—

Mr. Al-Rawi: At paragraph (a)—so we are at clause 5, it is the amendments to the Conveyancing and Law of Property Act. *[Crosstalk]* Oh, I see. What happened, let me explain. In the courtesy copy consolidated, we did not include the definition of “public body”, so it is in the list of circulated amendments. It is at page 23 of the circulated amendments but, unfortunately, we forget to include it in the marked-up version that we sent out last night. I apologize.

So, Madam Chairman, clause 5, we are looking at the definition of interest in land and, very specifically, we are making sure that interest in land is then followed by—and let me just remind the interest of land is the lawful rights of land to hold the legal title. You note that it is not legal and equitable, right, preserving the existing law. In the second part of that, we are inserting the definition of “public body” for the same reasons that we put it into the Registration of Deeds Act, so that we can except out the public bodies. We dis-apply the public bodies for the contract to proceed these instruments. So it is the same rationale that we

did for the Registration of Deeds Act. That is part A.

Madam Chairman: And then can we go on to part B?

Mr. Al-Rawi: Yes Ma'am. Part B—

Madam Chairman: No, just one second. Any questions or comments on part A? Attorney General, part B.

Mr. Al-Rawi: Yes Ma'am. For part B, we are now treating with the same position that we did in the Registration of Deeds Act, which is to dis-apply the provisions of this section for the category of things set out. So a contract is not to proceed a deed if it is in respect of the matter set out. Same rationale for Registration of Deeds. These things ought not to have a contract because they are organized efficiently as they are under the existing law. This is to make sure that the Registration of Deeds Act and the Real Property Act will be in harmony—well, not real property because it is conveyancing and law and property—common law is in harmony with the Registration of Deeds Act. So that is the rationale for A and for B. We then have C, if I may?

Madam Chairman: Yes.

Mr. Al-Rawi: In (C), this is the exception that we put where you are dealing with, as we did for the Registration of Deeds, if it is a lease—because we are accepting leases, right?—if it is for a lease that is really a conveyance because by way of reference to the premium or rent it is, in fact, a conveyance, then it is not accepted from the contract. Again, the Woodbrook example or the Goodwood Park example as it may be.

In (D), as in Delta, we are renumbering subsections 3 and 4, and we are making sure that we do not disturb the law of part performance. This is very, very important to preserve the existing law because an argument may be performed by way of part performance. We do not disturb the law as we know it as lawyers of Lonsdale & Marsh, you still have the part performance aspect. So those are the rationales to maintain the existing law. Again,

these spring from observations that came up in our discussions with the Law Association.

Madam Chairman: Hon. Senators, the question is that clause 5 be amended circulated.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

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

Mr. Al-Rawi: Madam Chairman, clause 6 is amended as follows:

- A. In paragraph (b) in proposed section 61A(1) -
 - (a) delete the word “conveyance” and replace with the word “transfer”;
 - and
 - (b) insert after the word “contract”, the words “or agreement”; and
- B. In paragraph (c) (iii), in proposed subsection (3) delete the word “Deed” and replace with the word “instrument”.

Madam Chair, to harmonize again the other system of registration, which is the Real Property Act. we propose the amendments as circulated. We are making sure— the word “conveyance” was inappropriate. You do not have a conveyance under RPA. It is a transfer. Conveyance is really a common law description for the Registration of Deeds and the Conveyancing and Law of Property Act. So we had to change it to the word “transfer”. We inserted for consistency the words “or agreement” alongside contract for the same reasons we did in the Registration of Deeds Act and we are deleting the word “Deed” and inserting the word “instrument”. Again, because under the Real Property Act it is an instrument, it is not a deed. A deed is a common law creature and an instrument is a creature of the Real Property Act. Those are the reasons for the amendments to clause 6, Madam Chair.

Sen. Mark: Madam Chair, where does clause 6 start? I am not seeing it.

Madam Chairman: Clause 6 starts on page 24 of the amendments, at the bottom. So,

hon. Senators, the question is that clause 6 be amended as circulated.

Question put and agreed to.

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

Clauses 7 and 8 ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Bill reported, with amendment, read the third time and passed.

URBAN AND REGIONAL PLANNING PROFESSION BILL, 2019

[Second Day]

Order read for resuming adjourned debated on question [June 03, 2020]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, those who have spoken on this Bill are: The hon. Attorney General who moved the Motion, Sen. Wade Mark, Sen. Hazel Thompson-Ahye, Sen. Deeroop Teemal, Sen. Sean Sobers and Sen. Dr. Varma Deyalsingh. Sen. Richards.

[Desk thumping]

Sen. Paul Richards: Thank you, Madam President, for recognizing me and allowing me to make a contribution on this Bill to establish a Council for Urban and Regional Planners and to provide for the regulation of the urban and regional planning profession and for other matters incidental thereto. I have to admit after that committee, I have to catch my bearings and change my focus directly to this new endeavour which was started, I think, in our last session. Well, you know, I think it is quite commendable that we are moving in the direction in Trinidad and Tobago, as recognizing the issue of urban planning as important enough that we professionalize the discipline by many other provisions in this Bill.

Urban planning is one of the most critical and indispensable elements in any

country's national development thrust. We have suffered immensely in Trinidad and Tobago because of a lack of a cohesive urban planning strategy as a relatively young Republic and independent country. Much of our urban planning followed through from our colonial masters—if I could put it that way—in terms of what we inherited and how we try to form our Republic and an independent country following that. So much so that what happened is that in trying to move forward, a lot of the planning issues, particularly related to urban planning, seemed to be in a haphazard manner or a hodgepodge manner, much to the chagrin of the population, especially in terms of population density, strategic planning to avoid environmental catastrophes, and we are reaping the rewards of that presently in terms of what we are seeing with a lack of proper regulation of housing settlements, mistakes made, like other jurisdictions, in the types of housing settlements and the population densities that would have facilitated some unforeseen and unfortunate social circumstances.

One of the initial challenges that I have, I would say from the very start with this urban planning council is the way the council is being appointed primarily at the hands, in my understanding of the Bill, of the Minister. And I fully agree that the profession and the discipline of urban planning needs to be professionalized as we have seen with the Law Association which is self-regulating, the Medical Board of Trinidad and Tobago. But, with four members being appointed by the Minister, in this case as I read it in the Bill, it seems more akin to a political creature subject to some level of possibly political influence, suggesting it is less akin to a professional self-regulating body and more akin to an arm possibly at the Ministry of Planning and Sustainable Development. So, I think that is a cause for concern where I am concerned.

In everyday life, the issue of planning is evident in many different aspects of our lives in public groups, parking facilities, housing developments, recreational settings, public transport, retail stores, offices, office spaces, human support services and industrial relations. In fact, so important is the issue of urban planning in modern context, in contemporary society, that there is a new discipline that has evolved called “environmental criminology” whereby planning is done to facilitate social interaction in a way that inhibits crime that creates a more productive society in many different ways. We have seen the evolution of what have become known in many jurisdictions, including Trinidad and Tobago, in terms of the development of what has been described as ghettos and slums, not because the persons in many of those areas—and I would call no areas—do not have the potential, but because their environments facilitated a particular type of social development, and that is why I like this approach in terms of the establishment of a council of urban and regional planners to provide for the regulation of urban and regional planning in Trinidad and Tobago.

And the issue of environmental criminology and urban planning is now intricately woven into any aspect of planning in any jurisdiction, so much so that I would have hoped that in the crafting of this document, that would have been more evident than what I am seeing here, given the possible productive elements that could have and should have been included. I do not think it is too late to do it because the council, as the Bill purports, has particular expertise stated out, and I am hoping that in Part II of the Bill where it states, and the title is:

“Trinidad and Tobago Council for Urban and Regional Planners:

- 4 There is hereby established a body corporate to be known as “the Trinidad and Tobago Council for Urban and Regional Planners”.

- 5 (1) The Council shall comprise of the following seven members:
- (a) four persons nominated by the Minister as follows—
 - (i) one Attorney-at-law with experience in matters relating to urban and regional planning;
 - (ii) two State Planners who are professional members in TTSP; and
 - (iii) one person representing the public interest; and
 - (b) three persons nominated by TTSP, who are professional members in TTSP and have at least ten years' experience in urban and regional planning.”

I think one of the elements that should be stated clearly, because of what I have just elucidated on, is the issue of including in an urban planning council provisions for—and I know it can be done at the discretion of the Minister in this case which I have already stated I do not agree with, but stated a social science professional for the very reasons I have outlined before, because of the issues related to environmental criminology which is defined as a:

“...study of crime, criminality and victimization as they relate, first, to particularly places, secondly, to the way that individuals and organizations shape their activities...by place-based...spatial factors.”

And the research consistently reveals that crime and social inequity and social discord are not randomly distributed across urban space, but rather different types of crime and social discord clustered at particular locations and at particular times, depending on how these areas are formulated and designed. So if you ask any criminologist or law enforcement professional, they will tell you that based on how a city or a town or a village is laid out, it can either inhibit crime or facilitate

crime, and we need to start thinking of how we are planning our urban spaces with that in mind.

It is also research-based knowledge now. Empirical evidence has proven that particular layouts and designs of urban spaces can also act as assistance to law enforcement in terms of the way the exits and egresses are laid out, in terms of whether or not the commercial spaces are closed to residential spaces, in terms of what are the pathways in and out of the centres of those urban centres and how that plays into law enforcement responses, how that plays into residential areas intertwining with business opportunities in various locations. And I think we need to start thinking that far in terms of urban planning in Trinidad and Tobago, because it has worked and it is working in several jurisdictions, modern cities that are designed to facilitate that kind of productive social interaction.

In a survey conducted in the study, “Urban Planning and Environmental Criminology: Towards a New Perspective for Safer Cities” by Paul Michael Cozens, 2011, and it is in the journal of *Planning Practice and Research*, Volume 26, No. 2:

“...six of the first seven reasons burglars stated for selecting a particular property for victimization were related to access routes...”

Six of the seven reasons that the criminals decided on a particular victim or a particular space to invade is because of access routes. So, if you think of that in terms of urban planning, if we are that visionary in terms of planning our cities and spaces, we realize we can inhibit the very nature of crime and the very access and opportunity of crime simply by the way we plan our urban spaces. It also:

“...has been evaluated, and results indicate that such developments reduce...”

—if the design scheme is done with that in mind. Design schemes have been evaluated:

“...and results indicate that such developments reduce both crime and the fear of crime...”

—by residents, because residents can then act as a part of law enforcement. And intervention strategies, because of the way it is designed, they can look out for each other in a much more effective manner, because of the way their living spaces are designed. So I think putting that social science and that criminology element in terms of environmental design is very critical moving forward.

Also, in a research paper dated July 09, 2016, which is titled the: “Effect of Crime Prevention through Environmental Design...Measures on Active Living and Fear of Crime”, there are several empirical bits of evidence that propagate the concepts of natural surveillance territoriality and access control and activity support in terms of the now famous “eyes on the street”. I know the Commissioner of Police speaks about it a lot and the Minister of National Security I should say, in terms of understanding that while you may have a certain number of persons employed in law enforcement, really and truly, if urban design is done with that aspect, that visionary aspect, you have more of a chance of neighbours looking out for neighbours in what is described as the famous—

“Jacobs’s famous...“eye on the street” influenced by the concept of human surveillance.”

And:

“According to this idea, the safest urban space is one that is continuously watched by human beings.”

And they are described as a more “defensible space” where community activists—

community elements, I should say, and business elements feel safer because they are arranged in a way that makes them more apt to participate in law enforcement and the maintenance of law and order. So I think that is also something that is worth consideration when we are thinking of this kind of council as proposed by this legislation.

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

One of the issues also that must be considered when one is thinking of urban planning in a future context is the issue also related to the type of equity and inequity that we are seeing in society, and in today's context, especially when we are looking at what is happening in the US and the residents that the George Floyd case has propagated around the world, is the issue of the relationship between urban planning and social equity, and the fact that planning laws and planning legislation and developmental controls must be accounted for in this sort of council or in this consideration of urban planning in any jurisdiction moving forward.

The way that planning laws, planning regulations and developmental controls and the issue of land use and equity and social justice, if designed properly, if the proper considerations are taken on board, many of the issues with injustice and social inequity and disparities in socioeconomic demographics can be mitigated in part by the way we design our spaces, by our land use policy, by the way we look at different demographics in society and how they are accounted for in terms of national land use policies, and how their developmental trajectories are influenced by how the State thinks of equity and land distribution for all demographics in society. So I think the issue of social equity, social justice, must be paramount in the consideration of lands use.

Over the years, there were several different generations as they are described

in the research of planning, development and controlled regulations for lands use and what should, in my opinion, be of paramount importance in the council as is being proposed in this legislation. And I will just quickly go through—how much more time do I have, Mr. Vice-President, if I can ask?

Mr. Vice-President: You have five more minutes.

Sen. P. Richards: Five more minutes. Okay, I am on cue. So I will go a little more quickly.

“First generation”—was about—“Building”—and— “housing codes”

“Second generation: Traditional land use and density instruments”

Because density also plays a part in how a particular town or village grows. We have just come out—we are just coming out, I should say, of several phases of COVID restrictions in Trinidad and Tobago, and I thought to myself on many occasions, given the regulations that were enacted by the Government to protect the society, the population and several restrictions in terms of gatherings, is how people in some developments in Trinidad and Tobago, given how these developments were constructed and designed, could not even socially distance, because they are housed in such close proximity and these kinds of designs, mistakes or errors of the past have implications for public health regulations and public health issues moving forward. And as the social scientists and the scientists have spoken in terms of the World Health Organization, these pandemics are going to become more and more a commonplace and the spread of the disease between human beings, and between animals and human beings are going to be more of a consideration moving forward. So the:

“Second generation: Traditional land use and density instruments”

The—“Third...Rules about good architecture, urban design”

The—“Fourth...Environmental protection”

And that is also of great concern, and I think it is catered for in the Bill. And the:

“Fifth generation: Regulatory instruments as public finance substitutes”

3.10 p.m.

So in conclusion, because I have a lot more to say but I know that I am running out of time, as we look toward building the type of society that we want in Trinidad and Tobago and looking at our missteps in the past, particularly as it relates to urban planning and this urban planning council, we have to factor in these kinds of visionary considerations if we are to understand the impact of how we build, where we build, what we build and the type of society we want and the type of country we want in 15, 20, 30 years are concerned. The only other thing I would cite is in clause 7, I would like to say that we should specify:

“A member shall be appointed to hold office for a term of three years and shall be eligible for reappointment.”

—and it does not say how many terms a person can be reappointed. And as we have seen in many other bits of legislation, incumbency has issues of possible corruption and we have put provisions in other bits of legislation limiting the amount of terms or the amount of time any particular person can sit in a council, and I think it is of worthy consideration where this one is concerned.

Also in clause 18, part (2), there is provision for a Provisional Licence and the way the council can reject or suspend the licence, but it does not state if the applicant is refused, that it has to be stated in writing, the reasons for refusal in writing to the applicant and in what particular time frame. And I think if we are regulating this with some sort of ministerial oversight because of the number of members that the Minister can appoint, we have to put some safeguards in place

for persons who are applying to the council for particular documents and particular approvals. And also the issue of whether or not the revocations or the suspensions are going to be gazetted so that persons who are going to these urban planners who are going to be licensed by this regulatory body will know who are legitimate and who are not legitimate and should not be approached for their services. With those few words, Mr. Vice-President, I thank you. [*Desk thumping*]

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. And here we are again with another public interest Bill, the Urban and Regional Planning Profession Bill, 2019, which is a critical companion legislation to the partially proclaimed Planning and Facilitation of Development Act, 2014, and the Planning and Facilitation of Development (Amdt.) Act, 2019, but the Bill brings to bear the overall importance of urbanization and the need for professionalism in the discipline. And it is important because it is the process by which the towns and the cities are formed and become larger as more and more people begin living and working in central areas, and this is also linked to modernization and industrialization, so, so important it is for the future.

If I just look back, historically, urbanization in the Caribbean began with the Spanish colonizers and in Brian Hudson's "Urbanization and Planning in the West Indies", he noted that the first towns created by the Spaniards were unplanned, but as time passed the towns were laid out in a regular grid plan with a very spacious square centre as we have in Port of Spain, and so that the Spaniards believed in the foundation of towns and that resulted in many urban areas. However, the British thought differently and they felt that the spread of towns would affect lands for the

sugar industry. So that in most cases they discouraged many urban centres and focused on one main town, and that town is where the main port will be held and where you would have all of the administrative centres. So that is a little bit of our history and the outlook for the whole process of town planning. So, and as trade grew, and so on, and as we came into the 20th Century, the whole activity and the population in these particular capitals as was set out, increased rapidly.

So urbanization is about change; it is about enormous social and economic and environmental changes, and that provides an opportunity for sustainability with the potential to use our resources more efficiently and to create more sustainable land use. And I think all of us have been speaking about that in terms of the importance of urbanization to our development process and of course the future of Trinidad and Tobago. I will touch a little bit on the Caribbean, but of course corruption rears its head again here, and indeed Sen. Sobers who would have reflected on that when he spoke about the corruption from the point of view that, yes, you would have the professionals in the Ministry of Planning and Development, and so on, in the Town and Country Planning Division, but when you went out to the corporations, and so on, and the regional areas, there you would have more unprofessional people dealing with the same matter and sometimes that led to conflict of purpose and corruption, but I would speak a little bit more about what we have done to fix that partially.

So, yes, corruption has been a deterrent that has plagued urban development, and it is not only in Trinidad and Tobago, it is around the world; it is in the Caribbean as well. So that corruption is found and, of course, if it is left unchecked, it really threatens to stymie the goals for a more prosperous and resilient and inclusive urban future. And again in my research I looked at D.

Zinnbauer's "Urban land: a new type of resource curse?", which is a 2017 publication, and I would just quote this little paragraph:

The decisions around zoning, land management, infrastructure and service builder offer some of the most sophisticated, inscrutable and lucrative ways for personal enrichment, crony capitalism, clientelism and political patronage.

And that sums up it all as to what I was saying. The point is that it exists, corruption that is, and it is detrimental because it can become engrained in our system and it can certainly retard growth.

But it was noted again in research, anti-corruption research and policy work, that you could probably work—it suggests that we should look at and work on proactively strengthening processes of integrity among professionals and that may prove to be more effective in battling corruption than the conventional prescriptive and punitive anti-corruption measures historically taken. This is what we are doing here, we are seeking in this Bill to protect urban development from corruption, but we are taking the integrity approach by focusing on the profession. So this Bill is all about the profession and it is about the integrity approach to deal with urban development and move it away from corruption.

So the Bill addresses the urban and regional planning profession. And who are these planners and what do they do that we speak of in the Bill, and these are really very skilled professionals in the built and earth natural environment and they promote sustainable development, and they have a very broad view and understand how places work and what they need in order to function better. And so that they are at the heart of development and they work along with other professionals, like project managers and architects and engineers, surveyors, and Sen. Richards spoke

about the environmentalists as well. Also they work with politicians; they work and they collaborate with decision-makers, politicians and legislators, and stakeholders and local communities to create and implement that long-term vision.

So that again, places and spaces provide for people's needs and then they function better, that they are healthier, that they are economically viable and adaptable to change as well as protecting the environment. So they help guide development by creating these plans and policies for areas, and so on. So what we have in Trinidad, the Trinidad and Tobago Society of Planners; they represent a large majority of the urban and regional planners in the country but it functions as a governing body and regulatory authority for its members. However, membership in this society of planners is not mandatory, and although they are the recognized professional association, and that is not a good thing. In fact, that could be a dangerous thing, and that is sometimes where the corruption comes in because it is not mandatory, and so there are persons posing as planners, professional planners and perhaps they are not. And then, of course, any person purporting to be a planner and who really is not, can serve to defraud persons of land and titles, and deeds, and so on, and again someone without the proper knowledge and experience can really develop lands incorrectly, and of course that is going to lead to improper infrastructure, drainage issues, harmful environmental factors, and so on. And again that makes it all the more necessary to avoid these dangers and to focus on a legislation like we have brought today, one that focuses on the profession, ensures that it is transparent, ensures that there is accountability, and again, at the end of the day, it protects our citizens and our business, and so on.

So the Bill establishes this Council for Urban and Regional Planners and provides for the regulation of the urban and regional planning profession, and the

establishment of the council, along with the regulations that are in Bill will seek to help fight against the corrupt practices that we have spoken of, many of us, in urban development, and again it takes us forward towards the more sustainable cities. So we see the benefits of creating a council, and if you go to Part II, clauses 4 to 14, all planners will now be required to register under this Bill. It is mandatory once you wish to practise within Trinidad and Tobago. So that again, the Bill protects the citizens of Trinidad and Tobago who wish to engage in a planner, that is a legitimate planner and so that our citizens would not be conned or outsmarted. And it also helps the legitimate planners, the legitimate members of the profession from getting outbid for jobs from non-professionals or persons portraying themselves as planners who do not really have any knowledge and expertise that is required.

So moving on, in Part III of the Bill, clauses 15 and onwards to clause 28, educational standards are now required, and Sen. Sobers again raised this concern about the difference in education requirements along the chain, and again the standards are required in order to allow this practice, this profession to be effective. So the requirements require a degree in the field of urban and regional planning or a postgraduate degree in urban and regional planning and post qualification experience ranging from two to three years depending on the degree, and so on. And licensing of the members will now include character and fitness to practise, recommendations from two urban and regional planners, so we move away; it is just not about education but again now about fitness to practise.

Another feature, the introduction of this temporary licence for non-citizens of Trinidad and Tobago and Caricom nationals wishing to practise in Trinidad and Tobago, ensuring that the CSME is alive once again, this will facilitate trade in

services among the islands within the region and, of course, ensure that there is in fact a standardized criteria for non-nationals, people from the region wishing to work. So the stipulations for a non-national are the same as a national, ensuring that there is a level playing field when it comes to their requirements, the education, and then, of course, the character and fitness to practise recommendations, and so on. Again I come back to the point of trading services, and I spoke again about it when we dealt with the real estate Bill, that formalization of the practice legitimizes the industry and encourages the trade in services, earning of foreign exchange. It might be small because it is not a big practice, but again it encourages the movement within the region, and also, I am sure, globally now that it is all formalized.

So again, the export of the services, very, very important from the standpoint of trade; again, Mr. Vice-President, the CSME at work. So we talked about the integrity approach in this Bill, we focused on professionalism, and schedule six of the Bill defines the code of ethics by which all members of the council must adhere when practising as an urban and regional planner, whether through academia, research, private or public practice. So the code of ethics is vast and it covers the general obligations of the profession and understanding of land as a finite resource, responsibility to the public, responsibility to their employer, responsibility to their client, employment in the public sector, self-responsibility, and it covers also advertising of the services. So this code of ethics is grounded again in transparency, in accountability, in professional conduct, in public interest, and most of all in integrity.

Part V of the Bill also speaks to enforcement and sanctioning mechanisms through their Recognition and Disciplinary Committees; clauses 34 to 42, the

Recognition Committee, in principle the Bill has significant leverage to shake the curricular and entry requirements for the profession, ensuring the entry and quality of education and conduct is up to standard. And then of course, clauses 43 to 49 deal with the Disciplinary Committee, and that holds the power to sanction irresponsible behaviour through limitations, suspension or revocation of professional licences for individuals and even firms, and together with these two committees you have more far-reaching regulations to limit any unethical transgressions.

Again, I spoke a little bit about the Caribbean and I want to say, again, the importance of urban planning; it brings to bear the region, the Caribbean, its vulnerabilities as well. You know that the Caribbean is on the frontline for the impacts of climate change, and also within the region, you would be surprised to know that it is probably one of the more highly urbanized regions with over 70 per cent of its population residing in towns and cities. So that means a lot of the social and economic activities in the region take place in urban areas, but in the past few decades you have had some unplanned and rapid urbanization within the region and that has resulted in some growing urban sprawl, some environmental degradation, increased vulnerability to the effects of climate change, economic and social instability as a result of improper planning again, and putting the Caribbean at risk particularly when one thinks of the impact of—

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

Sen. The Hon. P. Gopee-Scoon:—Sorry. Thanks—when one thinks of the impact of climate change as well. And with the hurricane season being a yearly occurrence, proper urban and regional planning is paramount to avoiding environmental destruction, and of course which has its economic consequences and

also its social devastation as well. So that the effects are real of climate change, and so on, and Caricom and its member states continue to take its steps to mitigate these efforts, but again the proper planning is absolutely essential and of course having our professionals, their services regulated as well.

This whole topic of urban development and sustainability was discussed at the level of the COTED, which is the Caricom organization which deals with trade and economic development. So in 2011, it was discussed at a special meeting, and at the meeting, matters relating to sustainable land management, urban development, climate change, ocean governance, all of these things were discussed and the outcome: the endorsement of the formation of a Caribbean professional planners association, a request for more stakeholder engagement on the Caribbean urban agenda, and another special meeting to discuss, again, the physical development and planning. So that is where we are going, and we know what has to be done and Bills like these before us today are steps in the right direction to ensure a sustainable future for Trinidad and Tobago and also for the region.

So again, I would conclude that we are not reinventing the wheel in any way at all, we have and we continue to recognize the work of the existing Trinidad and Tobago Society of Planners. They would continue to exist, but here we are again talking about an integrity profession approach to the profession to ensure that all the educational requirements are standardized and that there again is improved transparency and accountability, and again integrity through the sector. And we have always taken our role very seriously as a Government and therefore at the forefront of our minds it is always the citizens of Trinidad and Tobago, our greatest asset. Every Bill we have brought before the Parliament for the last five years, we crafted to ensure the protection of our citizens, whether it is crime or any unfair

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practices in any which way, and this Bill is absolutely no different, Mr. Vice-President.

So, again, to the members of the planning fraternity, these regulations will bring standards, and it will make their jobs easier so that they can work better knowing that integrity is the underlying thread. And with this Bill too we are also making steps to attain Goal 11 of the UN 2015 Sustainable Development Goals, which is exclusively dedicated to urban development, setting out all of the commitments which require urban planning and, by extension, our planners to play a pivotal role to help our cities into more sustainable and inclusive parts, and it also explicitly binds countries to enhance the capacity for participatory, integrated and sustainable human settlement planning. Thank you, Mr. Vice-President, and I certainly commend this Bill. [*Desk thumping*]

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

Sen. Amrita Deonarine: Thank you, Mr. Vice-President, for the opportunity to contribute to the debate on:

“An Act to establish a Council for Urban and Regional Planners and to provide for the regulation of the urban and regional planning profession and other matters incidental thereto”

Mr. Vice-President, the Bill before us today, it basically allows us to register or regulate the urban planning profession which is the last group of professions which needs to be regulated under the Planning and Facilitation of Development Act, 2014. At this point in time we already have the land surveyors, architects and engineers who are already registered under this Planning and Facilitation of Development Act. So, Mr. Vice-President, today my contribution would resort to commence in three main areas. The first area that I would like to share some

comments on is with respect to the qualifications and the experience of the persons who form not only part of the council but also part of the committees, and not only those members who form part of the council but also the members of the committees. So based on my reading of the Bill, 10 years' experience seems reasonable. For the three persons who come from the Trinidad and Tobago Society of Planners and the three persons from the Disciplinary Committee who need 10 years' experience in urban planning and experience; that is reasonable.

When we look at the Recognition Committee, the Bill outlines that five years' experience is required, however, I do not think that five years is sufficient because the role of the Recognition Committee is really to look at the qualifications of the members who would qualify, and I honestly believe that it needs a proper understanding of the evolution of the field of urban and regional planning. And they also need to have sufficient experience so that they can look at the various combinations of alternative qualifications and experience that would allow persons to qualify and practise as urban and regional planners. But, Mr. Vice-President, I recognize that it is a field that is still developing and right now the pool for the urban and regional planners may be a very small pool, and from my understanding not a lot of persons are qualified in the field. And also, according to clause 15 of the Bill, which seems to very much specify the qualifications and, in my opinion, it actually over-specifies the qualifications to some extent.

It kind of borders us up into a position where we are restricting ourselves in a pool that is even smaller. So how are we going to even compensate for this recognizing that there is some sort of skill deficit in the urban and regional planning field? Now, when I looked at clause 15(4) of the Bill I was hoping that

would have brought some sort of comfort to my mind, and if you will allow me to read, Mr. Vice-President, it says:

“Subject to subsection (3), the applicant shall submit to the Council qualifications in urban and regional planning that have accredited status and are granted by institutions which are accredited under the Accreditation Council of Trinidad and Tobago...”

Mr. Vice-President, to me this still does not convince me that some sort of flexibility would be given to persons who would have been practising urban and regional planning by accumulating alternative means of matriculation. Let me give you an example, Mr. Vice-President. From what I understand the first PhD in Urban and Regional Planning that graduated from the University of the West Indies, their first point of education before they embarked on the journey of urban and regional planning started at John Donaldson Technical Institute, and with that qualification they were able to qualify for a Master's programme in Hydrographic Surveying in the United Kingdom, and as a result because of those two qualifications that that individual had, they were able to qualify for the PhD in Urban and Regional Planning at the University of the West Indies in Trinidad and Tobago.

Mr. Vice-President, this person did not have a BSc in Urban and Regional Planning and did not have an MSc in Urban and Regional Planning. So my question is, would persons who would have achieved or accumulated alternative means of matriculation, would they be able to qualify to become members and practise as urban and regional planners? So my question is, what recourse do persons like this have?

Mr. Vice-President, I mentioned that there is a skills deficit in the field of

urban and regional planning and I was able to look at the twentieth report on an enquiry into the approval process for land use in Trinidad and Tobago. It is a report that was completed by the Public Administration and Appropriations Committee, a committee that I sit on as well. I checked, Mr. Vice-President, to make sure that the report was laid in the Senate, it was laid, so it is widely available for everyone's perusal. And what the report indicated was that there is a problem in the public service, especially in the Town and Country Planning Division and the Ministry of Rural Development and Local Government services. There is a problem with hiring qualified persons in the field, and what it also indicated is that there are a lot of vacancies and persons are just not available to fill these positions. So what this has resulted in, Mr. Vice-President, is that the rate at which approvals for outlined planning commissions and final planning commissions, it has reduced the rate significantly. Right now, as per fiscal year less than 50 per cent of approvals, OPPs and FPPs are being processed on an annual fiscal year, annual basis.

So, I mean, we need to recognize that, yes, the pool is small of urban and regional planners, but we need to also recognize what are we going to do and what is the role that this council is going to play in filling that gap that currently exists. So, Mr. Vice-President, I see this as an opportunity for targeted public policy being used to match the skills deficit we have in the field. So I already see that through the Scholarship and Advanced Training Division under the Ministry of Education, they have clearly outlined in the developing needs of the country in which they award scholarships, they have already highlighted urban and regional planning as a field that they tend to encourage persons to apply for and they grant scholarships for, but we need to take it to another step. I honestly believe that we need to find a

way to encourage people to not only know about the field but also to aspire to become urban and regional planners.

3.40 p.m.

Because, Mr. Vice-President, it is only when you reach university level or you have graduated from your BSc, then you understand that there is this field or this whole world of urban and regional planning and how many things that you can do with it. You can be a transport economist. You can move from being an engineer into an urban and regional planner. So maybe consideration can be given, as part of the functions or role of the Council, is to approach the University of the West Indies, maybe the geomatics and engineering division, and find ways to pair urban and regional planning with more interesting fields like economics, management, architecture and even engineering. So that was one of my concerns.

Mr. Vice-President, another one of my concerns had to do with the temporary licence. Now, the provision is reasonable, having temporary licence for non-Caricom members being granted on an annual basis, subjected to renewal also on an annual basis. What I also liked was the fact that the Bill specified that a temporary licence could actually be restricted to a particular project, all of which I agree with. But I also see that we could use this temporary licence as an opportunity to reduce the skills deficit that I was talking about previously. So let me explain.

You see, international consultants that are hired by, let us say multilateral lending agencies for example under their procurement rules, it allows for experts who are contributing member countries to qualify to apply for those consultancies. So sometimes you may have consultants bidding and being awarded contracts from European countries, British countries and even Asian countries. These countries

tend to be countries whose planning practices are significantly different from ours here in Trinidad and Tobago and the Caribbean region.

So, Mr. Vice-President, these urban planners, these international consultants, are sometimes the best of the best, they are top notch, but they lack one thing. What they lack is familiarity with the Caribbean context and Trinidad and Tobago's urban and regional planning practices. Not only that, they also lack familiarity with the complexities that constrain urban planning in Trinidad and Tobago. These international consultants they come here and sometimes they work on projects that are small and might be trivial, such as maybe squatter regularization, but sometimes these consultants come here and they work on mega projects, projects that inform policy frameworks, projects that could actually create a dent or a change in the structure in which things are done here in Trinidad.

So I see an opportunity here, as I said earlier, and I would like to strongly recommend that the Council use this as an opportunity to champion persons who work as these international consultants, and have them paired with local experts. Not only local experts, but also graduate members, affiliate members of the Trinidad and Tobago Society of Planners. It can allow for a lot of transfer of skill and expertise in the field, and also help us with that problem where we have a small pool of urban and regional planners.

Mr. Vice-President, the next area that I wanted to speak about is with respect to the balance of liability between the urban and regional planner and the State should bad development take place. Now, we are accustomed in this country to a particular way in which the country is laid out. You have small businesses interwoven with residential homes, you have small workshops, garages, welding shops interwoven with residential homes and also causing nuances on residents.

We have developers devouring chunks of mountainside. All of these things lead to damages to the environment some way or the other. The one that we are most prominent with is flooding, and all these things tend to affect the welfare of the people of Trinidad and Tobago.

So how is the public going to be protected should bad development take place? And this brings me to the whole issue of indemnity insurance that Sen. Teemal raised during his contribution. Is indemnity insurance mandatory under this Bill? And I am still not quite sure. Because if you look at the code of ethics under Part I—Part I of the code of ethics says that the urban and regional planner shall have indemnity insurance when required by law. When is it required by law? It is required by law under section 81 of the Planning and Facilitation of Development Act, a law which is not yet proclaimed, and the complexity in implementation makes it an even further achievement for full implementation. So in the interim, which part of this Bill mandates that an urban and regional planner has indemnity insurance?

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

Sen. A. Deonarine: Thank you, Mr. Vice-President. If you look at section 50, which looks at the complaints of professional misconduct, this section actually dis-applies to Part I of the code of ethics from being a qualification for professional misconduct. So it is maybe beyond me, I probably missed something in the Bill, but I ask again, what is there in the law to persuade professionals to take this indemnity insurance?

Why I am raising this issue, Mr. Vice-President, I see it as very critical for urban and regional planners to have indemnity insurance, because when submissions for complex development are submitted to the various authorities, an

attestation is put on the cover of these submissions and these attestations simply mean that the urban and regional planner is liable if anything goes wrong with the development. And this is where my confusion is because as I cited earlier, Mr. Vice-President, there is a problem in processing these approvals, and it is also well above the statutory time frame of 60 days primarily due to these departments being under-resourced.

So what if we have a situation where because of these attestations and as a means of trying to manage the under-resource and the resource constraints in these divisions, that we have members of the Ministries actually over relying on these attestations, and have a situation where they even think about doing like a random sample and not in detail checking each one of the submissions? My question is: What happens should a bad development become approved? Who is liable? Does the State accrue any liability in a situation like this?

Mr. Vice-President, the last thing that I want to say, and it is a little bit of an annoyance, and I see it keeps coming up in almost every piece of legislation that we look at, and it has to do with clause 29 and clause 33 which is the publication of various aspects of the members of the council and the register in the *Gazette*, and two daily newspapers. I know it is may be standard procedure, but I think we have reached a stage right now in 2020 where we really need to reconsider what is standard procedure. What is standard procedure should involve all notices of the State from various arms of the State should be posted on the websites.

Why can we not make that standard procedure? I mean, it is time that we have information accessible in realtime on a realtime basis, especially when persons are removed from the list. Because there is a gap from when someone is removed from the list and the rest of the public seeing that someone is removed

from the list. Not everyone buys the newspaper. With those few words, Mr. Vice-President, I thank you.

Sen. Dr. Maria Dillon-Remy: Thank you, Mr. Vice-President, for allowing me to join this debate at this late stage coming to the end, and as usual I will be very brief.

The debate is on:

“An Act to establish a Council for Urban and Regional Planners and to provide for the regulation of urban and planning profession and other matters incidental thereto”

The stated purpose of this Bill simply is to establish the Trinidad and Tobago Council for Urban and Regional Planners, and that will deal mainly with regulation of the urban and regional planning profession and matters incidental thereto.

Lots of persons have already spoken about the importance of urban and regional planning to Trinidad and Tobago, and also the fact that it is late that these professionals are not yet registered.

I had the opportunity to read through some parts of the *Hansard* for the sittings of the Senate of June 17th and 24th, 2014, where the debate for the Planning and Facilitation of Development Bill took place. The debate was very spirited, extensive, and at the end that Bill was passed unanimously, and the Act was assented to in October 2014, and to date is still only partially proclaimed. That Act has to do with planning and facilitation of development. So making sure that we have the plans available appropriately with this new Bill, it is only still partially proclaimed.

Mr. Vice-President, permit me to bring to this debate some historical facts that would allow us to understand why this Bill, which is a sister Bill for the Planning and Facilitation of Development Act, this Bill is needed now. It was 21 years ago, actually in 1999, that the Planning and Development of Land Bill was withdrawn from the Senate on 22nd of August, 2000, and the Planning and Development of Land Bill 2000, was introduced in the House of Representatives on the 18th of August, 2000. The Planning and Development of Land Bill, 2000, lapsed on the prorogation of the Fifth Session of the Fifth Parliament on the 7th of October, 2000.

The Planning and Development of Land (No. 2) Bill, 2000, was referred to an informal committee of the Senate on 19th of October, 2000, and that Bill lapsed on the dissolution of the Fifth Parliament on the 3rd of November, 2000. The Planning and Development of Land Bill 2001 again lapsed on the dissolution of the Sixth Parliament on 13th of October, 2001, and we go on and on. It tells how very, let us say, how important planning and development has been to all previous administrations, that Bills keep coming and coming to Parliament and keep lapsing.

In 2014, the Planning and Facilitation of Development Bill was finally approved under the Partnership Government, and it was supported by the PNM, then in Opposition. This companion Bill, the Urban and Regional Planning Profession Bill, 2019, is the companion Bill of the Planning and Facilitation of Development Bill, but it did not complete its journey through two Houses of Parliament in that session of the Parliament, and the parliamentary term ended and the Bill lapsed. This Bill was resuscitated by this Government, and it was passed in the House of Representatives in October 2019, and is now before the Senate.

A concern that I have is that the three-fifths majority was withdrawn. At least that is what I understand the Attorney General said in his presentation in piloting the Bill. Even though the Bill did say that it was inconsistent with sections 4 and 5 when it was piloted this time, the Attorney General said that it did not need a three-fifths majority for reasons that he had mentioned. I would just have some concerns as to why this is. The Planning and Facilitation of Development Bill was passed with a three-fifths majority in 2014, and just a concern as to why this is not necessary now.

Mr. Vice-President, having consulted with members of the Trinidad and Tobago Society of Planners, they are tired. They want to see this legislation passed. They are concerned that it has taken this long, and that in 2020 it is as though they are the last of these professionals that are being recognized by the State requiring licence in order to practice.

In other words, you would not go to a doctor or a lawyer or an architect or an engineer without knowing that they are appropriately certified to practise in the country, but you can get anybody planning in such an important area, as mentioned already by previous Senators, like Sen. Deonarine and also Sen. Richards, as to importance of this planning process. We are saying that these people at this point in time—So in other words, the Bill is long overdue.

Mr. Vice-President, let us just look at some of the clauses of the Bill. Clause 5 that speaks to the composition of the Council. It has been mentioned by more than one speaker so far about the fact that the Minister is choosing four of the seven members of this Council. But as far as the society is concerned, they were a bit concerned about it before, but when two of the Minister's four persons are chosen from the Trinidad and Tobago Society of Planners, it gave them a little

more, let us say comfort, because these are people who would already be practising according to the regional planning, their ethical standards.

They also have in clause 5(1)(b), that they nominate three persons who are members of the society having at least 10 years' experience. In clause 5(1)(a), the clause says and:

“one Attorney-at-law...”—as a member of the Council—“with experience in matters relating to urban and regional planning;”

I was concerned, Attorney General, how much years' experience should this person have? Is it important that a person at that level of the Council have just one or two years, or should it be more like seven or 10 years' experience in planning?

[MADAM PRESIDENT *in the Chair*]

Madam President, clause 9 of the Bill talks about the Council paying members:

“...such remuneration and allowances as the Minister may determine.”

And the society is just wanting to find out, the Trinidad and Tobago Society of Planners, just to make sure, that the State will be providing a stipend on a regular basis for members of the Council.

Clause 15 of the Bill says, and I quote:

“No person shall practise as an Urban and Regional Planner in Trinidad and Tobago unless—

- (a) his name is placed on the Register; and
- (b) he holds a valid licence issued under section 16, 18 or 19.”

This clause makes it very clear that anyone practising in Trinidad and Tobago as an urban and regional planner should be on this register. Therefore, this is not voluntary, and therefore can the Attorney General clarify as to why the three-fifths majority would be removed? Because this as far as I am understanding is a

compulsory act. The person must be registered in order to practise.

Clause 16(3), Sen. Deonarine was asking about persons who, in other words, may not necessarily have all the qualifications that are in the section on the qualification of the persons who are qualified as urban and regional planners. Clause 16 is a grandfather clause which allows for all those who are already professional members of Trinidad and Tobago Society of Planners:

“...immediately prior to the commencement of this Act, they shall be deemed an Urban and Regional Planner.”

So my understanding is that they do not necessarily have to have the qualifications, but because they have been practising for years and the Bill is now coming in, or the Act is now coming in, that they can be grandfathered in. If that is so, Attorney General, clarify.

It says though that these people must submit an application. It says nothing about that they have to pay a fee, whereas the others did say about a fee being paid.

Clause 29 of the Bill again refers to a register. And like Sen. Deonarine spoke about just now about the fact that there must be this register, and that the register must be able for people to look at, et cetera, and nothing being mentioned about electronic availability of these registers. Something I think the Attorney General should look at.

My attention would then be turned to the First Schedule of the Bill. Attorney General, through you, Madam President, the licence fees that are mentioned in that Schedule. The question is, this Bill is now coming—the first time these professionals are being licensed. Currently the licence fee for a medical practitioner is \$1,000 each year. These are start-up professionals, and the fees that are being considered are, I think, it is \$1,500 for the first year for the professional

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licence.

Attorney General is it possible for those fees to be considered, particularly also at this time and season that we are in right now, where the society is down in terms of the economy, could you consider a variation of the licence so that the professional licence start-up, instead of \$1,500 to be \$1,000, renewal, \$500, a provisional licence, \$500, renewal of a professional licence, \$300. Temporary licence should remain at \$1,500. Then re-issuance of a temporary licence to \$1,200, and a certified copy of a licence, \$150, certified copy of the register, \$150, and request for written information. So a little adjustment of the fees, could it be considered, Attorney General?

Madam President, I would like the Attorney General to also let the Senate know what next is necessary for the full proclamation of the Planning and Facilitation of Development Bill. When this Bill is passed for the urban professionals to be registered, would that mean that the President could now be advised that there should be full proclamation of the Planning and Facilitation of Development Bill, Attorney General?

Madam President: Sen. Dillon-Remy, you have five more minutes.

Sen. Dr. M. Dillon-Remy: Madam President, this Bill is long overdue. I look forward to some of the answers to the queries and suggestions in the wrap-up, and with that I thank you. [*Interruption*]

Madam President: Sen. Obika, just hold on one minute. [*Interruption*]

Sen. Taharqa Obika: Thank you, Madam President. Land and urban planning; I take it as a great privilege to be contributing to this Bill today because it is a topic that is dear to me. And if there was one reason why I would have entered and

stayed in politics I think it is to do with land and distribution of land, and correcting our colonial inheritance.

I will focus on clauses 5, 6, 15, 44 and 54, regarding the registration, the contents of the persons on the Council, the Disciplinary Committee and practising without a licence. Then I will also speak to matters raised by the Minister of Trade and Industry, also by Sen. Paul Richards regarding justice, but I will focus on economic rather than social justice, and also some rationales for the persons who I believe should be added to this Council.

So urban planners. Just as is done in Tobago, in this case if you look at clause 5 where the Tobago House of Assembly is specifically and particularly referenced, and my experience working as an economist in the Tobago House of Assembly, informs me that it is important that the THA has a representative in this, or Tobago has a representative, especially not just Tobago, but a member of the council that has a peculiar knowledge of the urban planning and land situation in Tobago.

I want to make a special case for the oil belt. Point Fortin, Palo Seco, Fyzabad, and surrounding communities have suffered from the colonial inheritance of gifting large tracts of land, due to energy interests, from over a century ago. The reason for this disenfranchisement of the persons in these communities have resulted in the inability of the regional corporations, of the Housing Development Corporation, of the Government to plan settlements, and of private developers to plan settlements, because practically all accessible lands connecting communities are owned and controlled by these oil interests. As a result of that, what you have is wanton squatting, many communities developing in terms of—from a squatting scenario. If this council has a planner with that peculiar knowledge as a mandate

in the legislation, it would take care of that scenario as we progress as a society.

So I am prescribing a broadening of the council and mandating that there is a person that has specific knowledge on the matters of the oil inheritance and the colonial inheritance.

Clause 15 speaks to registration as an urban planner, and there is a requirement to obtain a recommendation from two urban planners. I want to urge a note of caution that this should not result in an elitist bottleneck, where persons wish to enter the industry and they find it difficult to do so.

4.10 p.m.

And I think the council, Madam President, should be able to step in where someone has failed to obtain the recommendation from two existing planners, so that we cater for incidents where persons may suffer from groupthink prejudice. Okay? For example, they may have done somebody something wrong, as we say in Trinidad, and as a result of that, the rest of them, the entire side, side-lines or blacklists that particular individual from joining the fold. I think we should guard against that and have an avenue, hon. Attorney General, at the level of the council, for those persons to still have a second bite at the cherry of becoming members of the planning council— a planner in Trinidad and Tobago.

Disciplinary Committee composition, also, I want to ask that we have a representative, considering the geographical cohort that I am advising should be included at the level of the council, just as we have the Tobago representative, someone who understands the issues in the oil belt, that should also be featured in the composition at the level of Disciplinary Committee.

Clause 54 speaks to the punishment for practising without a licence and if in fact we remove any elitist bottlenecks as I mentioned prior, to becoming an urban

or regional planner, then we should have no issue raising the penalty because \$15,000 as a penalty for practising without a licence, I think that may be a little too low as an upper limit, because I assume that it will be at the discretion of the magistrate or the judge to hand down the sentence. Because what could end up happening is the persons who practise without a licence may just add that upper limit as a cost of doing business and hedge their bets against getting a non-custodial sentence. So we are kinda catering for the “smart-man-ism” culture that we do not want to see in our society.

So, the colonial inheritance. At the beginning of my contribution, and I saw Sen. Paul Richards spoke about social justice, I think economic justice is important. We have large-scale squatting in communities which results in corruption in a portion of lands of the State. This is the case of anyone who wants to acquire land for themselves and their family. In the south land, in the oil belt, you cannot get land to purchase. The few that are available, of course, becomes very expensive because of the simple mechanisms of supply and demand because the State owns and controls almost all the available lands for use that are not forestry. And as a result of that, it is either you squat on state lands, you engage in some form of corrupt activity to acquire use of lands that are controlled by the State, or you pay the exorbitant market prices for the few that are available. I am saying that this Bill gives an opportunity for the Attorney General to look to other opportunities for broadening the scope.

In the urban planning council, I want to make a case for someone from the HDC to be there as well or whichever agency is responsible for developing housing at the level of the State. And I think that would help to ensure that the developments of the Housing Development Corporation take into consideration the

desires, aspirations of the urban planning council so we do not have communities being built like we have at Maloney Gardens, where there is one building with so many families clustered in it with little to no avenues for creative engagement and physical activity. I think having the HDC also there would place an emphasis on urban planning, the importance of creating happiness and family. Because they focus on building houses and they get young families to homes, the element of societal and national happiness is paramount in the work that they do, and I think that would help guide the hand of this council.

There is a criticism I have of HDC however— is that they do not create economic spaces, and it is a conversation I had with the head of the HDC as to why when communities are being constructed, insufficient space is reserved for economic activity, which has the benefit of keeping the incomes within the communities that are built, as well as educational spaces, financial institution spaces and day care, for example. So what ends up happening is these communities try to retrofit the houses that they have to cater to these things, which leaves a less than ideal situation.

The other issue, the other reason why someone at the level of the HDC would be important on this planning council, from my view point, is the need for a focus on mixed income communities. I have noticed in Point Fortin there is one community that some focus was made, in terms of Lake View, to have mixed incomes. So you have the very large houses that are for persons of a slightly higher income, then you have the single units, you have the townhouses and so on, all at different prices and price points and catering to different categories of income. So what you have is, you have a community that is not only made up of a homogenous income bracket.

So you have persons—what that does, from my viewpoint, is that it removes the stigma that is attached to a community, it removes the complex, whether it may be an inferiority complex or a superiority complex, that the colonial inheritance has left with us with. Because if you look at even in Point Fortin, you have the communities where the whites were, Clifton Hill; the communities where the monthly paid senior staff were, at Mahaica; and then you had where the daily-paid workers in Techier were located. And that style of building communities where persons of one income are totally divorced from persons of another income, it does not help with societal and national healing and harmony, and I think, given that the HDC has shown a willingness to focus on mixed-income communities, they should really be present at the level of this council.

And there is a definition of urban planning that deals with justice. One scholar defines urban planning and I quote as:

“...the process that seeks to control the development of cities through local regulations and direct interventions, to fulfill a number of objectives, such as mobility, quality of life and sustainability.”

Now, there are several challenges that urban planning seeks to correct, and because of one particular challenge, I think a representative from the Ministry of Works and Transport, but specifically the Transport Division, should be present on this council, because much of our cities are built around the car as a vehicle; cars, buses and other modes of transportation moving persons and commodities throughout and across our country.

So an expert in transportation, at the level of the Ministry of Works and Transport, but the Transport Division, would provide some level of fetter against any planning programme that may be disadvantageous to the desired mode of

transportation as we evolve as a society because cities try to solve the problem of moving persons. And I think the council would benefit from not only naming someone who has peculiar interest in Tobago, peculiar interest in the oil belt, peculiar interest from the level of the State housing agency, in this case it is the HDC, also, peculiar interest in transportation and movement of persons and commodities. So someone from the Ministry of Works and Transport, but the Transport Division should also be present in such a council.

Now, there are other issues that planning seeks to solve and I did not see someone from the Ministry of Planning and Development and I assume it may be, and I could be wrong, that the Ministry of Planning and Development may be the line Ministry, hon. Attorney General, in this case? Okay. So then that will cater to issues such as population density, pollution, climate change, sanitation. Because sanitation is a main issue in cities and planning, I think the Ministry responsible for— even if it is not a full member of this council or if, for example, we want to envisage a state committee that supports the work of the council—the Ministry responsible for the regional corporations should also have— even if it is an *ex parte* role—

Madam President: Sen. Obika, you have five more minute.

Sen. T. Obika: Thank you, Madam President. Cities also fight against or promote gentrification. That normally happens at the level of Ministry of Planning and Development, so the Ministry of Planning and Development. But financing of development is also a key issue that all urban centres, urbanization plans face—the key issue is financing. How does a city get— for example, Port of Spain has a millennium city project, Point Fortin has tried its best to cater to its expanding population, San Fernando has done a lot in terms of expansion. How does a city

finance its change? And I think the presence of someone from the Ministry of Finance would also assist.

And I want to end this contribution on culture; cultural spaces in urban planning in Trinidad and Tobago. Unique to Trinidad and Tobago is the expectation that once a community has been around for some time, we will naturally forge creative spaces, whether it be a steel pan arena, a Ramleela ground or any other cultural space, and it is a great criticism I have of the way we build housing in our country, because at the level of the HDC we would expect once you put a significant number of houses down, there will be cultural spaces emerging. I think when we build communities, we should take this into consideration and as a result of that, I believe that a representative of culture, whether it be the National Carnival Commission— that is the only national cultural organization I can think of, other than the Ministry of Community Development, Culture and the Arts itself— should have a presence in the planning council. Because what ends happening is we plan and we say, “Well that is just culture”, and what ends up happening is, the communities retrofit spaces to accommodate the cultural expressions of people, or you have persons having a daily or weekly or seasonal exodus from their communities to go to where the cultural activity takes place.

So what you are actually doing is building communities without a soul when you build them and you omit the all important aspect of cultural representation. It is not just for people, it is not just for business, it is not just for industry, it is also for culture. And in our nation, culture is an integral part of our way of life, and it is something that I believe should be engaged at the level of planning any type of development in Trinidad and Tobago. Madam President, I thank you. [*Desk thumping*]

Madam President: The Minister of Agriculture, Land and Fisheries.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): [*Desk thumping*] Madam President, thank you very much for the opportunity to join in this debate on this Bill to establish a council of urban and regional planners.

Madam President, I must admit that Sen. Obika, my friend from Point Fortin, sent me back into the Bill. I did, in fact, contribute to the review of this Bill, and I think that Sen. Obika and Sen. Sobers before him fell into the trap of confusing planning with planners. I excuse Sen. Sobers, of course, he described himself as my nephew and I excuse him just for that, but Sen. Obika should know better than that, Madam President.

This Bill seeks to establish a council to determine the suitability for registrations of persons as urban planners and also, to regulate the profession in the manner in which self-regulated professions operate. So this Bill does not deal with HDC or the Ministry of Planning and Development or the Ministry of Finance, culture, cultural spaces, much of what was said was wasted, just wasted. Those things fall, there is a statutory regime for planning in this country and there is some relevance to it in the Bill if you look carefully.

So planning is essentially— the things you talked about are essentially governed at this time by the Town and Country Planning Act, which is to be replaced by the Planning and Facilitation of Development Act, which is partially proclaimed now. It is governed by the existing Municipal Corporation Act and hopefully one day we will replace it with the one that is before the Joint Select Committee. It is in part governed by the Land Surveyors Act because, at this time, land surveyors play maybe an overly important role in land use and planning and

development and so on, and hopefully this Bill will allow the urban planners to take their rightful position in development planning.

Surprisingly the Public Health Ordinance is also a very important part at this time in planning. The EMA legislation, in particular, the requirement for CECs and so on, form an important part of planning. So that is the planning aspect of it, and a lot of what you referred to are covered in some measure by those pieces of legislation but unfortunately, not this piece of legislation.

Madam President, in relation to this Bill I will say three things having responded to Sen. Obika. The first is that my colleagues on the Opposition Bench for sure cannot question the contents of the Bill. It is remarkably similar to what was contained in the Bills of 2013 and 2014, and the two significant differences, of course, will be the fact that this Bill does not require a constitutional majority. And secondly, instead of providing for five members in 2013 and 2014 Bill, we provide for seven members in this one. But I do not think my friends on the other side could question the contents of this Bill.

The second thing is that, I do not think they can question the intent of this Bill because—and I had to go to the hon. Attorney General just to confirm my understanding that it is very unusual to reference legislation before the legislation comes into being. But this Bill is hitched to and was hitched by my colleagues too, the Planning and Facilitation of Development Bill which is the now the partly proclaimed Act, and clearly, they had the intention of bringing this piece of legislation into being. Unfortunately, it did not make it past the post at that time but with their help, we are getting it there this evening.

And, Madam President, to answer Sen. Dillon-Remy, you are right. Your friends who are urban planners, who are tired, they are right because the history of

this Bill and the history of the planning and facilitation of development legislation goes way back, but definitely, we can anchor it to 1999. The talk, the discussions on replacing wholesale, the Town and Country Planning regime, preceded that. But definitely, when the then Minister John Humphrey laid his Bill in 1999, the Planning and Development of Land Bill, it was in large measure the piece of legislation from which everything has flowed up to this point, including the Bill we are discussing today.

In relation to that Bill it, of course, proposed to repeal the Town and Country Planning Act, and it also, just like the facilitation of development legislation, it sought to create a national planning commission to devolve planning power and the permitting regime to local authorities, which is something we still find ourselves working on in the local government legislation, to facilitate development plans and delegation of authority to approve those plans, to create long-awaited national physical development plan, to establish building codes— and this was 1999; 1999 and it was contained in the legislation.

And in clause 80 of that 1999 Bill, there was a section dealing with register of listed professionals. And it is in that section that this reference to the various professions arose. And in that section made reference to architects—by reference to the profession and the legislation governing them—engineers, land surveyors, but in referring to urban planners, it referred to an urban planner is someone who was a full corporate member of the Trinidad and Tobago Society of Planners.

And in giving recognition to those professions as the critical professional elements of planning and development, it set in train this need to “regularize”, to use that word, the profession of urban planners. And every version— because there were several versions after that, it did not stop with John Humphrey’s 1999

Bill. In fact, that Bill lapsed 1999, it lapsed in 2000 and it lapsed in 2001, and nothing was done in relation to this matter, until the Planning and Facilitation of Development Bill in 2013. And that Planning and Facilitation of Development Bill also dealt with the same type of structure. The Planning and Facilitation of Development Bill, 2013, like the Humphrey Bill of 1999 dealt with the creation of the national planning authority, in this case—that is the title it was given. The delegation to local authorities, which we are still grappling with, the same development plans, development goals, land development, building codes and building permits, and what is now section 73 of that partially proclaimed Act dealt with the issue of listing of professionals, but in referring to urban and regional planners referred to the profession being registered under the Urban and Regional Planning Profession Act in anticipation of us passing this Bill and creating that Act.

So the history, I say that my friends do not have much to quarrel about in this Bill simply because the contents are largely what they intended to pass during their time. And secondly, they hitched it to that piece of legislation that is partially proclaimed. And thirdly, the history of all of this is rooted in legislation that has been before us since 1999 onwards, and this remains, as you correctly said Sen. Dillon- Remy, the last piece that we must address.

I will say, Madam President, that this piece of legislation fits into the work that we have been doing in relation to not only land, but the development of Trinidad and Tobago, and I will make 10 quick observations which you have heard some in part already.

One is that, this Bill is part of what we need to address the issue of squatting which is pervasive, and it is even on the beaches and river banks, Madam

President,.

Two, this Bill is part of our treatment of land and the asset of land and included in the protection of land. As we get into the rainy season, I will remind of something. It is not just squatting and illegal development and lack of Town and Country Planning approval that we face in this country, you know. We face something called “theft of soil”. It is an offence under the State Lands Act, Madam President to remove soil from state land, but imagine last year, the Minister of Works and Transport had to confront the theft of soil from the river banks, the burns and raised portions of the banks in Aranguez, for example, and around the Caroni bank where millions are spent to raise those banks where the theft of soil. So it is not just land and improper planning and building in places where you are not supposed to be, it is something as simple as “thieftin” soil. I myself have had to confront that. We have had to deal with land fraud, and I am very, very happy— Attorney General, I am surprised you did not pop the champagne today that, we have managed to, with your support, to get this registration of deeds legislation through this House. [*Desk thumping*]

We have dealt with the issue of title issues—we have dealt with the issue of title issues, state land, land surveying is critical. The land surveying profession, because I know not many of you will say it publicly, and not many people will admit it, but the fact is that as a Minister. I have a significant amount of responsibility for the land surveying profession, and I see the complaints and the reports, I receive it from members of the public, and none of these acts of fraud could take place—none of these acts of fraud could take place without the support of various professionals. And the professionals are drawn from my profession, the legal profession, from land surveyors, from valuers, from planners, it is a range

of professions that must come together, because I see coming before me on a frequent enough basis, plans, survey plans that do not comply with the legislation and the regulation. I see plans that do not show encumbrances, do not show structures and so on.

So that it is all these professions, including this one that we have formally created, must function and must have oversight, and we must have the power to have persons disciplined for breaching the code of ethics and for breaching the rules. I have already spoken about valuations, rent collections in the State sector, local government and Town and Country— so all these things. We have legislation before us on reforming local government. We have spoken about the TTRA in terms of collecting revenue, in respect of land assets from the State, all state— all of these things must work together.

So, Madam President, this Bill of 61 clauses in eight Parts essentially creates a self-regulating profession. I want to make the point that the Bill is really triggered by clause 15 which makes it mandatory for persons who wish to practise this profession to be registered.

And clause 15 triggers the requirement for registration and its counterpart is clause 27, where if you are refused registration in one category, there is an appeal process. And I think one of my colleagues talked about that, there is an appeal process in 27. And in dealing with 27, that is the appeal process, if you are refused a renewal, if your licence is revoked or suspended, or if your application is refused, there is an appeal process. But most importantly, for the second time, we are putting to use the Environmental Commission, a commission that has been severely underutilized. So clause 27, most importantly, places the appellate power in the hands of the Environmental Commission.

And we did the same thing in our amendment in 2019 to the Planning and Facilitation of Development Bill, we made certain appeals— we made the Environmental Commission the body to go to for certain appeals under that piece of legislation. So 15 triggers the registration requirement and 27 deals with the appeal, but in between there, there is a process—

Madam President: Minister, you have five more minute.

Sen. The Hon. C. Rambharat: Thank you very much, Madam President. In between there is a process, between clauses 29 to 53, Madam President, very importantly, in a self-regulated profession it is not something that is going to be dominated or overtaken by a clique or a cabal or any group of persons. There is a process that is set out between clause 29 and 53, there are procedures, there is a process. Most importantly, at every step of the way, there are provisions that comply with the natural justice requirement, the decisions of this council are reviewable. As a public body, they are reviewable, and there is an appeal process, as I said, including an appeal to the Environmental Commission on four categories of issues: refusal of applications, suspension, revocation and other things like that which are set out, and there is, of course, always an appeal through the normal process of law if you file for judicial review proceedings.

4.40 p.m.

So, Madam President, this Bill is a counterpart to the Planning and Facilitation of Development Bill. It has its history going back to two decades. It is an important part which was established a long time ago in having the professionals working in the area of national development and physical planning regulated. Madam President, I will say this, we would rely on the disciplinary process, which is from clause 50 to 53, to make this profession work, because I

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know a lot of people do not want to talk about it, or admit it, but the disciplining of professionals in this country is woefully inadequate, and we could talk about all the professionals, the medical, my own profession, engineering, surveying, all of them. The disciplinary, the speed and the attention played to disciplining professionals in this country is inadequate, notwithstanding the statutory provisions that provide for the disciplinary process to be followed. And this is another one we are establishing, where we would rely on the profession itself to regulate its affairs, and we have to ensure that it works in the interest of the people of this country. I thank you. [*Desk thumping*]

Madam President: Attorney General.

The Attorney General (Hon. Faris Al-Rawi): [*Desk thumping*] Thank you, Madam President. Sometimes I forget which House I am in and sometimes I forget what day it is. What I do know is that there is consistency in effort, and there is consistency in good work, and I would like to thank all hon. Senators for their contributions today in this debate, and certainly on the last occasion when we began the discussion on this Bill. It is more than coincidental that this Bill has come after we just finished another extremely important piece of law in the Senate, and that is the Registration of Deeds Bill, the miscellaneous provisions. And this Bill therefore centres, as Sen. Rambharat put it very clearly, upon the profession of Urban and Regional Planners. But it is, as all hon. Senators have put onto the record, materially plugged into that most precious resource which we all cherish, and that is the land and value of Trinidad and Tobago.

This law is essentially, as Sen. Dillon-Remy, Dr. Dillon-Remy has put on the record, long in the making, and for many, many years, and I thank Sen. Dillon-Remy for putting it on the record as I did in my piloting, for many, many years we

have just flirted with development, and the reason why I have not managed to get a hold of development is that quite simply put no one was really paying attention to the overarching structures of development. It is one thing to have a law, like the Planning and Facilitation Development Act which is the law that this Bill plugs into. It is one thing to have the Town and Country Planning law, the environmental management legislation, the local government structures, the Municipal Corporations Act. But if the left hand is not with the right hand, attached to the body and the legs, then we are just spinning top in mud.

So to answer Sen. Dillon-Remy's enquiry, as to what are the steps next on deck to cause the operationalization of the law, they are as follows: One, the passage of this Bill. Why? We need urban and regional planners to act as listed professionals under the Planning and Facilitation Development Act so that we can have a system of central development at the Ministry level, and then a devolved management of development at the local government level, where you have simple development approvals. This allows us to take the Urban and Regional Planners, have them undertake via their professional indemnity insurance or bond, to undertake the work, engage in the delivery of planning approvals, so that you do not have to come to home office or central office each time.

The second step that is required is that the municipal corporations law has to work, and the local government reform was strangled, near to death in 2015 and 2016 when an attack was put on the manner in which we arranged the collection of revenue. Local government simply cannot work unless it has the lifeblood of money. And the local government reform has been strangled by the litigation which went all the way to the Court of Appeal and back, which was brought by Members of the Opposition. Fortunately they lost every single case, and the

population of the role of properties is in gear. Thankfully the courts saw that and put that straight. But local government cannot work unless municipal corporations are allowed the privilege of collecting their taxation to be used locally, because you cannot pay for it otherwise. And therefore, it is critical for us to remember that the local government reform, as that work will come out of the Joint Select Committee. It is okay, it was in a Joint Select Committee, you know, but it just cannot work without the money.

So I am putting together the whole of government system, the whole of governance system now, Planning and Facilitation of Development Act becomes capable of proclamation when the Urban and Regional Planners Bill is passed, so that we could regulate the profession. The profession works under the Planning and Facilitation of Development Act, they engaged in devolved functionality, they can give approvals together with other listed professionals. The lifeblood of money for simple development approval in the local government structure comes from the property tax. The property tax is not a dark word. It is not a difficult concept. It is not an ugly thing. It was brought into effect in 2014 by the Kamla Persad-Bissessar Government that proclaimed the property tax for industrial properties and agricultural properties, and lifted the proclamation to add in to commercial and residential. It was brought in by the last Government.

What next? Big question that has been asked and permit me to join Sen. Mark's observations with Sen. Dillon-Remy's. The Planning and Facilitation Development Act was passed with a three-fifths majority, because it touched certain property rights: trees, properties, the ability of the State to go in and demolish structures which breached the law. That interfered with the right to property, and therefore the Planning and Facilitation of Development Act had to be

passed with a three-fifths majority. This Urban and Regional Planners legislation does not require a three-fifths majority, because the law is now settled that the mandatory licensing regime is something which the law agrees is within purpose, because you must mandatorily be a member of the Urban and Regional Planning body, but that is not to say that you cannot be a member of another body, for instance, the Trinidad and Tobago Society of Planners. That law was settled in Barbadian case of Nurse.

I have received the opinion of Mr. Douglas Mendes of Senior Counsel, the president of the Law Association, who appeared in that matter in Barbados, and who also has advised generally on whether compulsory membership requires a three-fifths majority, and Mr. Mendes' view is that it does not require a three-fifths majority, because it is in keeping with the European Court of Human Rights, the common law, the United States jurisprudence, the common wealth jurisprudence, because the society that we are creating, the Council of Urban and Regional Planners, they are conducting a public purpose in the public interest using a public entity. So what we did, we brought this Bill. The Bill creates the body. The body is created by an Act of Parliament. It is a public Act, therefore. It creates a statutory authority. That statutory authority is the establishment of body corporate in clause 4, called the Trinidad and Tobago Council for Urban and Regional Planners. That is the public body. They are conducting a public interest. What are they doing? They are recognizing people by the Recognition Council. They are disciplining people by the Disciplinary Committee. They exercise the functions in the public interest to ensure the upholding of the code of ethics, to ensure professional misconduct does not happen. The other purposes and functions set out in the Bill. So, that is the public function. Who are the beneficiaries? The

public. So it is in the public interest.

So we hit all there of the markers that the law says is an acceptable route that does not require a three-fifths majority. That is also underwritten by the following fact: Number one, the engineering board was not created with a three-fifths majority; architects, no three-fifths majority; land surveyors, no three-fifths majority; real estate agents, no three-fifths majority; doctors, no three-fifths majority; dentists, no three-fifths majority. The only Act of Parliament that utilises a three-fifths majority for the creation of a body such as this is the Legal Profession Act, which was passed in 1986, when at that time the understanding was that you may potentially need a three-fifths majority, since 1986 to now we have long passed the jurisprudence settling that you do not require a three-fifths majority. So I hope that that gives hon. Members the degree of comfort. I refer you to the recently concluded debate that we did for the establishment of the Real Estates Agent Industry, as we have done it as a Senate.

I would like to say, Sen. Mark asked about the concept of the Minister, and the Minister having powers, I would like to report that when one has an appreciation of the Bill, and you look at the council, I thank Sen. Dillon-Remy, Dr. Dillon-Remy, for observing what is in the Bill. The Minister appoints. Is it unusual to have the Minister appoint bodies? No, it is not unusual. The Board of Engineers, the Board of Architects, the Land Surveying Board. All of those boards are appointed simply by a Minister. The Cabinet, and therefore a Minister appoints the judges of the Industrial Court that are not judicial and legal service appointees. So that is a court of record that is appointed by a “Minister”. What we are doing here is the Trinidad and Tobago Society of Planners, they have four of the appointees out of the seven, so the majority is there. But jump to clauses 35, is it

and 45?—38 and 45. Let us go to the Recognition Board as we look at clause 36. Clause 36 is the Recognition Committee, and then you get to the Disciplinary Committee, and you look at the membership of the Disciplinary Committee, and you see that clause 44 jumps in. Who appoints those people?

“...Disciplinary committee...
 ...Attorney-at-law...ten years’ standing...
 one member of the Council...
 ...three persons, who-

- (i) are professional members of the TTSP;
- (ii) ...nominated by TTSP...
- (iii) ...tenyears’ experience...”

That is Disciplinary Committee.

Look at the 36, the Recognition Committee, appointed by the Council, one member of the Council; four persons who are nominated by TTSP—members of TTSP and nominated by TTSP. So there is the co-regulatory aspect of the Trinidad and Tobago Society of Planners acting in this industry, and therefore there is an achieved balance to avoid against the creation of a creature that is too much a part of the Executive. The TTSP is an independent body created by an Act of Parliament since the 1970s, and they have co-regulatory function in what we are creating.

Madam President, I wish to thank Sen. Thompson-Ahye for making the amendments. We have circulated some amendments. We have accepted Sen. Thompson-Ahye’s recommendations as they relate to clause 6 to amend to provide for Council to expand the power of the Council to make recommendations to the Minister. I thank the hon. Senator. We have also accepted the hon. Senator’s

recommendations to clause 44, that the tenure of the Disciplinary Committee is not limited to the tenure of the Recognition Committee. We agree with that and we have proposed it in the list of amendments circulated. We also agree with Sen. Thompson-Ahye that clause 52 should be amended such that a report of the proceedings of the Disciplinary Committee should accompany the submissions of the recommendations by the Disciplinary Committee to the Council. I wish to thank Sen. Teemal as well for his contributions. We looked at including the reference of sustainable development in clause 3. We did not think that it was necessary specifically because we caught it under the Code of Ethics. So, it is in the Code of Ethics, it is at page 36, paragraph 4(1)(b). So we have it in the Code of Ethics.

We agree with Sen. Teemal, that the alternatives should be appointed, and we point out that alternatives are in fact appointed in the Bill that we have here in the same way as the substantive members. If you look at clause 36 you will see that that is in fact the case. We thank Sen. Teemal for the sharp eyes on clause 6. There was a typographical error, and we have circulated that in the list of amendments to be moved at the committee stage. Sen. Teemal reflected upon provisions for indemnity insurance. The issue of indemnity insurance for the planners falls into really what is the scope of their position. When we look to the bonding and insurance aspects in the Planning and Facilitation Development Act, where we look at listed professionals, we have a different regime operating there. That is under Part VII, section 73 of that Act, professionals are listed out to be those professionals in clause 79, and in clause 79 we say that the name and address of each person must be done, categories of applications, et cetera, and how we treat with their general provisions.

I would just like to make a point on the filing. Sen. Deonarine raised a very important point about accepting the norm. Today's world is that we deal on electronic platforms. One wonders who reads the *Gazette*, apart from me, because I am compelled to read the *Gazette*. And who deals with papers in wide circulation? The law is that the Electronic Transactions Act facilitates the e-records, the website notification, et cetera. But the immutability of the evidence—let me repeat that, the immutability of the evidence is in the *Gazette* and the newspapers. Why? Because there is a record by the Government Printer of those effects so that it cannot be fake news. If you look at a number of the UNC websites with the fake news stamps on them, as just an example, or any other website that may come up, where people just create anything that they want, DNN News for instance, just make it up as they go, those things are scandalous, and therefore you cannot leave it only to the new norm, which is the website approach. But the Electronic Transactions Act allows us to step outside of that mischief and that wickedness by having an immutable record at the Government Printer. Right now, every single legal notice published in Trinidad and Tobago's history is at the Government Printer in the *Gazette* and in the records of Trinidad and Tobago.

Sen. Sobers made a recommendation as it relates to clause 27, that the Council should have power to refuse the issue of a licence at first instance. We agreed with that, and we have included it in the list of amendments. Certificate of fitness, who would recommend applicants? That is mandatory for the membership of the Trinidad and Tobago Society of Planners. We agreed also with Sen. Sobers that there should be not appeal for first time applicants. But he dealt with the issue of no appeal for first time applicants, and we propose an amendment to clause 27(1). Sen. Deyalsingh dealt with a number of issues, disciplinary committee,

including person nominated by the mediation board, et cetera. What we wanted to do was to create a mechanism for the hearing of the dispute, and that mechanism has been created in the traditional ways. We could not step too far outside the formula of the engineers board, the surveyors board, et cetera, architects board. We have kept within the parameters of Disciplinary Committee and Recognition Committee as well. Madam President, I note that there was some further observations coming from hon. Senators. May I ask what time I must end, Madam President?

Madam President: Twelve minutes pass five, Attorney General.

Hon. F. Al-Rawi: Much obliged. I have dealt with the three-fifth, I have dealt with the partial proclamation. I have dealt with the difference between the Planning and Facilitation Development Act with a three-fifths versus this one. I look next to the position of the grandfathering the existing TTSP members, and yes that is a feature of the Bill. They are intended to be caught at this. At committee stage we can go through that in a little bit of detail if it requires clarification. The electronic register we have dealt with. The issue of the fees, as Sen. Dillon-Remy raised it, that is a matter, we went with the recommendation coming from the players themselves as to what the fees are. I can tell you that attorneys' fees for membership are much higher than doctors, it is clear. Perhaps we need to go and amend the medical practitioners' route, but attorneys-at-law pay a significantly higher sums for fees. We went with the recommendations that came to us from the Trinidad and Tobago Society of Planners, and that is how we came up with that.

Sen. Obika raised an interesting concept. He noted that San Fernando was one of these places with places for development. I could not have asked for a better submission in recognizing that San Fernando is a place for development,

because, Madam President, as the Member of Parliament for San Fernando West, the development plan for San Fernando which has been produced by this Government finally takes San Fernando West out of the situation that it was in, the City of San Fernando, in birthing spaces for economic activity. Could you imagine, Madam President, as we look at the Society of Planners in how they would operate as raised by hon. Senators, in the San Fernando context? Just by way of example. Can you imagine looking at a space such as the PTSC bus yard in San Fernando? We have the most beautiful stretch of land on calm waters in San Fernando, and 14 acres of that land stands as a garage to fix buses; derelict buses.

It took this Member of Parliament, to take those 14 acres, put it into the hands of UDeCOTT, and to have awarded the contract to Hafeez Karamath Engineering Services, for a \$750 million development, which starts this month. That is an example of what Sen. Obika was talking about, and I would like to tell him thankfully people like Members of Parliament who engage their constituencies the way we do, we come up with urban development, because you cannot just make it up, you know. You have to have certificates of environmental clearance, you have to have planning permission, you have to know where the money is coming from—Sen. Obika was correct—you need to have spaces in urban planning which allows for economic development. The example that I am giving is the San Fernando projects, which I as MP, I am very pleased to have birthed. One of 30 projects is the one that I have just mentioned, because it is only with that sort of coordination that you deliver citizens into hope, vision, and prosperity, and therefore fortunately, we have a Government that is in the habit of delivering. Other people may talk, we deliver these aspects, Madam President, and I as the Member of Parliament for my own constituency San Fernando West, I am thrilled

to have developed the San Fernando re-development issues in the manner that has happened.

Madam President, this Bill represents good law. Long overdue, simple in construction, powerful in delivery. It is in harmony with all of the other laws of similar type of regulation for professional industries. It is definitely something that is worthy of passage with amendments, as we propose in the circulated draft that is now before hon. Senators, and in those circumstances, 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: Hon. Senators, each of you should be in possession of four lists of amendments. You have amendments circulated by the Attorney General, by Sen. Wade Mark, by Sen. Thompson-Ahye, and by Sen. Maria Dillon-Remy. Is everyone in possession of all four?

5.10 p.m.

Mr. Al-Rawi: I have Sen. Thompson-Ahye's—

Madam Chairman: It is coming. Hon. Senators, I remind everyone that there are 61 clauses in this Bill and eight Schedules

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

Clause 3.

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

Madam Chairman: Sen. Thompson-Ahye, can you speak to your amendment

please?

Sen. Thompson-Ahye: My amendment seeks to include within the definition section, the interpretation section, clause 3, the definition of “planner”, which I have taken from one of the pieces of legislation—one of the jurisdictions that the Attorney General’s staff would have looked at. This is the Zambia legislation, exactly as it was taken from that legislation. And I am saying that, because when we look at our legislation we have:

“‘Urban and Regional Planner’ means a person whose name is on the Register and holds a valid licence issued under section 16, 18 or 19 to practise Urban and Regional Planning...”

—which tells me nothing. When I look at “urban and regional planning”, it says:

“...means the provision of physical or spatial planning services and includes—

- (a) the application of professional planning tools and techniques in an analytical process of choice which requires the balancing of competing interest for land and related resources;
- (b) the preparation of land use and physical development plans with short, medium and long-term perspectives at national, regional and local levels; and
- (c) development management activities with respect to the implementation of relevant government policies.”

I do not find that the obscurities provides—there is much enlightenment. And I thought that having a definition, such as what is obtained in the Zambia legislation, would assist even the persons who— the Accreditation Council which has the responsibility for assessing what programmes can be accredited. So that, if you know exactly what you are looking for and someone comes and say, “Well, I want

to have an academic programme”, and the Accreditation Council should be able to look and see exactly if these matters are encapsulated within the programme before they approve it.

Madam Chairman: Thank you very much. Any questions or comments on the amendment proposed by Sen. Thompson-Ahye? Attorney General.

Mr. Al-Rawi: I thank the hon. Senator for her research and for the suggested amendment. I am somewhat in a bind because the definition that we have proposed in this Bill comes from a deep consultation that was engaged—in fact, it began under the last Government in 2013, and then coming out of the work in the Special Select Committee. I sat in that Special Select Committee as a Senator and we have engaged as well the Society of Planners. So I am cautious to make an amendment now on something that has been consulted upon for several years, particularly when it is being taken from a different context.

Now, I recognize that the amendment is intended to springboard into accreditation and we have provided for the listing of the various different types of professionals, be they at clauses 15, 16—the professional, the provisional and the temporary licensing aspects.

So clause 15, when we get to it, is the general provision that you must be licensed, and then we state the evidence and we deal with it in subclause 3. So when we get to clause 16, that we treat with the qualifying aspects—clauses 15, 16, 17 and 18—when we come along those lines, we then find ourselves in 15 with the springboard at subclause (1). And if you look at clause 15(1), Madam Chair:

“No person shall practise as an Urban and Regional Planner in Trinidad and Tobago...”

And we have dealt with the definition section being that which we had the consultation upon, urban and regional planning. Now we need to make that small

amendment, which you will see coming forward when we get to the AG's suggested positions. So whilst I understand what the hon. Senator is taking us to, as a matter of policy at this point in the committee stage, after so many years, I would be very careful to make sure that I had the consent of all of the stakeholders in this regard, because that is a big step away from that which was consulted upon.

Sen. Thompson-Ahye: I do not see how anyone, you know, the stakeholders would possibly object to enlightenment being brought to bear on something which I—you know, seemingly obscure. Because saying what qualifications you need does not tell me what it is I need to study. If your son were to come to you and say, "I would like to be a planner," and you need to explain, this certainly would help Mr. Attorney General, sorry, through you, Madam Chairman, in saying what it is you are dealing with, social, economic and political issues and certainly it helps us to see the number of disciplines that are brought to bear on being a planner. It can only harm, it cannot hurt. I cannot see any of your stakeholders possibly objecting to this.

Sen. Dr. Dillon-Remy: Madam Chair, I just want to ask if Sen. Thompson-Ahye is asking that "Urban and Regional Planner" be replaced by the term "planner", or is it an addition?

Sen. Thompson-Ahye: It is an addition. We move from the general to the specific.

Sen. Dr. Dillon-Remy: Okay.

Mr. Al-Rawi: So, Madam Chair, whilst I—I am listening very carefully to my learned friend and colleague, Sen. Thompson-Ahye. The point is that the stakeholders are not here now. So we had a full Special Select Committee on this in 2013/2014. We then went into a full consultation with the Society of Planners, and I have a difficulty with making such a fundamental policy decision on the floor

because what we are doing is we are establishing the Urban and Regional Profession Planning Bill; this is the council for urban and regional planners. And to introduce now the subset on the floor without the ability to speak with them, I am very cautious that that is not the way that we generally do—this is a core concept of law.

What I can do is to give an undertaking that I will go back to the members of the association—hon. Members know that I have kept every undertaking that I have given on the Parliament floor, and depending upon the feedback, we can then look to retool this. But I am not in a position to advise the Government now, in the absence of consultation from the people who have sat with us to make this law for years, to take this recommendation immediately. I can go back to them and come back to the Parliament if necessary.

Sen. Thompson-Ahye: I understand the Attorney General's position. I thought that—since he gave due consideration to the other amendments I proposed—he might have used the time between last week and this week to perhaps consult. But I understand, I would not like to delay the Bill on account of this.

Madam Chairman: So, will you be withdrawing the amendment or shall I put it to the Committee?

Sen. Thompson-Ahye: Put it to the—I would like to hear what the others have to say.

Madam Chairman: I beg your pardon.

Sen. Thompson-Ahye: I would ask that it be put to the Committee.

Madam Chairman: Sure, sure, no problem. So hon. Senators, the question is that clause 3 be amended as circulated by Sen. Thompson-Ahye.

Question, on amendment, [Sen. H. Thompson-Ahye] put and negatived.

Clauses 3 and 4 ordered to stand part of the Bill.

Clause 5.

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

Madam Chairman: There are amendments circulated by Sen. Mark and by the Attorney General. Sen. Mark.

Sen. Mark: Madam Chair, I have looked at several professional organizations and bodies, and I have discovered that this is a unique arrangement here. And I adopt the position taken by the then Sen. Faris Al-Rawi as to how it would look if you have all these persons being appointed by a Minister. And it is in those circumstances, in an effort to maintain independence and not to allow this group to be under the supervision of a Government, particularly given the nature of their responsibility, I am therefore suggesting that we delete clause 5. Yes, I am proposing that instead, Madam Chair, of having four persons being nominated by a politician and you look at the composition of the “four” leaving a lot to be desired, I am suggesting, Madam Chair, that:

“(i) four registered urban planners...”—

Madam Chairman: Sen. Mark, the proposed amendment has been circulated. So there is no need to read through it. Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. I thank the hon. Senator for his recommendation, but his recommendation misses the proverbial Wade Mark. Because it still being appointed by the Minister. So despite my friend’s protestations, it is still the Minister appointing. So I agree with the fact that we need to have some degree of balance. I have had a chance now to look at the other mechanisms that we put in place. So whilst Sen. Mark is referring to a debate, which I did many years ago in the Senate, they were under different circumstances and I do not mean Opposition and Government. I am looking now at the other articulating provisions that we have put into place administratively and otherwise.

So it is a different playing field.

If we look at the concept, the mischief, which Sen. Mark is pointing to and I have no problems with the mischief that the hon. Senator is pointing to,

- “5. (1) The Council shall comprise of the following seven members:
- (a) four...nominated by the Minister...
 - (i) one Attorney-at-law...
 - (ii) two State Planners...”

—these are people backed by the office of public office, state planners.

“(iii) one person representing the public interest...”

If I look at Sen. Mark’s amendments with respect to public interest, Sen. Mark is asking for two rather than one. Public officer who is a registered planner. Well that is, we have two state planners as opposed to one, so we are in the same bracket and then when we look to the material part of this clause 5(1)(b):

“three persons nominated by the...”—Trinidad and Tobago Society of Planners—“who are professional members...”

So when you look at it, the majority of persons are to be taken three in subparagraph (b), plus two in the state planners, who are professional members of TTSP; that is five. Five out of the seven persons are with independent links. Add that further, a person representing public interest. So I think that the ratio of 5:2 in the pot of seven takes us within the zone of safety.

Sen. Mark: Madam Chair, I am very clear that my proposal, my submission, is to ensure that this body has some degree of independence and I am not budging—

Madam Chairman: Sen. Deonarine and then Sen. Thompson-Ahye.

Sen. Deonarine: Thank you, Madam Chair. My comment is not with respect to Sen. Mark’s amendment, however, it is with respect to the Bill as it is in its

original form.

Madam Chairman: No, let us deal—

Sen. Deonarine: Okay.

Madam Chairman:—with Sen. Mark’s amendment first. Sen. Thompson-Ahye.

Sen. Thompson-Ahye: I am not—what I was going to speak to is what I made in my presentation, the point about nominating. So if that is a different point, but I would like the Attorney General to answer that though.

Sen. Deonarine: Okay, so we will now deal with the—Sen. Sobers.

Sen. Sobers: The clause 5 itself, not to deal with Sen. Mark’s point as well.

Madam Chairman: Sure. So hon. Senators the question is, clause 5 be amended as circulated by Sen. Mark.

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

Madam Chairman: Sen. Thompson-Ahye.

Sen. Thompson-Ahye: I was asking, the use of the word “nominated” when there is no election and then it ends up in clause 5(2) saying, “shall be appointed”. Because if you are nominating, I expect that there will be some election. So could you not say that the persons are “appointed in writing”, that these persons are appointed, because I do not see the sense of nominating. If you can explain to me what nominated means in that sense, I will be grateful.

Madam Chairman: All right, just one second, Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chair. My questions are with respect to subclause (1), what was the thinking behind the decision of two state planners and one person representing the public interest and also, why is there no number of years of experience for those three individuals?

Madam Chairman: Sure, and finally, Sen. Sobers.

Sen. Sobers: Madam Chair, Sen. Deonarine actually hit it squarely on the head. I

was a bit confused as to, just the wording of 5(1)(a):

“(iii) one person representing the public interest...”

The other two parties nominated by the Minister, the lawyer and the state planner, they are professionals, they have qualifications, but one person representing the public interest where there is no qualification attached to that person is a bit—I would like some clarity on that please.

Madam Chairman: Sure. Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. So the rationale for the word “nominated” is because it is in reference to the process that follows. The Minister nominates but the Cabinet appoints. So the Minister with responsibility produces a nomination, a Cabinet Note is drafted, it goes to the Cabinet and then the Cabinet confirms it by way of a decision, then there is a ratification the week after or it may be on the same day if it is approved and confirmed, and then they are appointed afterwards. So it is to capture the process by which these things happen. It was very specific.

The second aspect is, with respect to, why two state planners versus one person representing the public interest? Because this entity, this Society of Planners, much like—the easiest comparator is the land surveyors. The vast majority of planners work for the State. So this is going to be the only body that bears close resemblance to this is, in fact, the land surveyors because almost all land surveyors work with the State. So what we did was to go for two planners because it is almost a closed society, and therefore, the interest of the planners was more important. But when you look to what the functions of the council are that is why you went for two planners. So this is materially tied into what the functions and duties of the council represent and therefore, having a preponderance of planner versus persons otherwise is there.

Now, there was a question as to qualification and that applies across the board, right? What are the qualifications for the planner, for the state person? All that we said really was the qualification for the attorney-at-law having experience in. And it is only when we went to the subparagraph (b) that we dealt with at least 10 years' experience. The reason that we are doing this is that we are birthing, for the first time, planners to be licensed in the three categories that prevail, when you get to section 15 onward. You have—you are licensed fully, your temporary and your provisional licenses. And they are disaggregated across, whether you have a BSc and how many years' experience you have, or whether you have a master's and how many years' experience you have. And because we are now starting this for the first time, if we were to put a time calculator on it, you may find that we have nobody qualifying to meet the first board or the first council. And therefore, what we did is to start with the ability to populate it.

The other aspect is, why no qualifications for someone representing the public interest? It's specifically because this is a—Sen. Thompson-Ahye really caught the bull by the horns in the definition of “planner”. If you look to what the hon. Senator pulled from another jurisdiction, it was socio-economic, public interest, et cetera. Sometimes people need no experience for that by way of qualification. It is pure knowledge of personality. I will give the example I often give of Anthony N. Sabga, a man with primary school education who could put anybody in his back pocket in terms of qualification and experience, and there are so many people that fit that category or persons that do not have formal education.

So it is specifically a “person representing the public interest” was not intended to limit the very—the most humble of persons who may not have qualification in formal mechanisms. So that was a purposeful position inside of there. If you look at the interest groups that are in the EMA circle, you look at

fishermen and friends of the sea, you may have somebody who has pure on the ground experience as opposed to academic experienced. So that is the rationale for the legislation and I hope that I have answered the questions put to me.

Sen. Deonarine: Thank you, Madam Chair. Attorney General, one follow-up question. Now given the rationale that you have outlined, could you then tell us what the qualifications of a state planner currently is?

Mr. Al-Rawi: I could not say now. I do not know. I will have to pull that for you. I would have the very least assumed that the Town and Country Planning Division recently provided for master's level experience for the Director of Town and Country Planning. I will assume, but I am not aware, I will ask the question and get the answer, that there is some degree of academic qualification at BSc or master's level. I assumed that that is the case, but I do not want to mislead you to say that that I know that for a fact.

Sen. Sobers: Hon. Attorney General, I understand your explanation in terms of the attorney-at-law and the state planners, that this is something that we are doing that is quite novel, and there may not be much lawyers who have that type of experience. I myself would have only been before the appeal board for the planning, Town and Country, once or twice. So I know most persons will take an engineer or something like that, right. But I am still wondering then, in terms of the one person representing the public interest, should we not at least have something of benchmark associated with that person as they are going to be, you know, on this council. I hear your explanations, but I am still thinking at least if maybe we could expand and say that, "one person representing the public interest with experience in matters related to urban and regional planning", possibly?

Mr. Al-Rawi: A commendable suggestion, but the problem is we have defined urban and regional planning. And what we wanted was a point of reference. So if

one makes sense of two dimensional going to three dimensional, or three dimensional going to four dimensional, you always have to have a point of reference in the grid. It is that X axis, Y axis in a two dimensional. When you get the Z axis is when you get a point of reference to make it three dimensional. And so it applies in the context of taking a perspective. So we did not necessarily want to remove a point of perspective. Sometimes there is just nothing to replace commonsense and that is what this is intended to capture.

Obviously, Cabinets take decisions carefully as to who a person ought to be but we felt that it was important to have the public interest. Because when you look to where this law is going to work, this law works in Part VII of the Planning and Facilitation Development Act and it works in listed professionals. And if you look to what the Planning and Facilitation Development Act does, it is everything from a tree, which is prohibited from being cut down, to a building. So who is to say which one is more important, the person with experience in horticulture, agriculture, trees, whatever it is versus the person with strict engineering background or structures. It was to allow for that sort of point of reference fluidity.

Madam Chairman: Okay, I think Sen. Deonarine has one final point to make.

Sen. Deonarine: Thank you, Madam Chair. Given what the Attorney General just said then what I am thinking is that you must have some sort of criteria that you are going to select this person who is representing public interest. And given that you are kinda indecisive there as to is it the person who is cutting down the tree or somebody else who is doing something else, how are you going to establish a criteria to select this person?

Mr. Al-Rawi: So this formula of someone representing the public interest exists in many other pieces of law and that is really entirely up to the Cabinet that appoints that interest. So we look to the Children's Authority which has a person

representing the public at a youth level, an under “twenty-five-er”. There is no criterion for that, but we put it on the Children’s Authority. So there are multiple examples where you want to leave the point of reference—remember, this law is going to speak henceforth. So we do not know what the climate of planning is going to look like five years from now or 10 years from now. What we do know is that the criterion is public interest and public interest is something which is known to us in general senses as a society.

Sen. Mark: Just a token of clarification. Clause 5(4), can the Attorney General, through your good self, seek to justify the establishment of alternates. And again, Madam Chair, why put all the power in the hands of a Minister? So I would like some clarification and justification for—

Mr. Al-Rawi: Yes, Madam Chair, I have been saved by technology, if you would permit me. The Director of Town and Country messaged me to say that the qualifications are BSc—this is to Sen. Deonarine—the planners, a BSc, most have master’s in planning. So I got that message and I thank Dr. Kirk for giving me that. Okay, I got another point which just came in by technology which will take care of something Sen. Dillon-Remy has asked for.

The rationale for alternates is to keep it quorate and to allow the functionality to proceed. So in a number of laws, including real estate agents which we have just passed the other day, et cetera, we have learnt from the experience of the pitfall of the Police Complaints Authority or other entities where you just lose a quorum because somebody falls out. And therefore the appointment of an alternate is important to allow for the continuity of the work. But the point is that they must still have the same criterion and fit the same categories. So it is really to allow the continuous functionality particularly because there is a licensing aspect where one of them may be called upon to participate in

the Recognition Committee or in the Disciplinary Committee as well.

Sen. Mark: Madam Chair, for some reason, apparently— the framers of the previous pieces of legislation governing professionals did not see it necessary to have alternates in the wheel that is being proposed here because I looked at professional organizations and I have not seen it.

Madam Chairman: So, Attorney General, there is an amendment circulated on your behalf to clause 5. I believe it is—

Mr. Al-Rawi: In 5(1).

Madam Chairman: Yes.

5(1) Delete the word “of”.

Mr. Al-Rawi: So, Madam Chair, it was consequent upon observations coming in the debate where the language was referred to in the chapeau of 5(1) and what we are proposing is the deletion of the word “of”. So:

The Council shall comprise the following seven members—not “of”.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

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

Madam Chairman: There is an amendment circulated by Sen. Thompson-Ahye. Sen. Thompson-Ahye?

Sen. Thompson-Ahye: Clause 6:

“Insert the following sub-paragraphs...”

—so that is why the numerical sequence has changed— the alphabetical sequence.

“(i) promote continuing professional development among planners”—as functions of the Council:

“(j) make recommendations affecting, or relating to, the planning

profession to the general meeting of the Council;”

5.40 p.m.

Now, when we look at the necessity for members to keep abreast of what is happening in terms of continuing professional development, the fact that they are supposed to have a certificate of good standing to certify that they have completed within the past year, a number of hours of continuing professional development, when no one has responsibility then no one having been charged will carry out in many cases this responsibility. Because continuing professional development is so very important, I thought that the council should be responsible for carrying out this function, and again there is precedent in the legislation looked at in formulating our particular legislation. So it occurs in other councils that that is a function and I, therefore, propose it for our legislation.

And in respect of making recommendations relating to the planning profession, one always has to be aware of what is happening in the external community, what is happening in terms of the environment. There is a lot that is happening with climate change and a number of things impacting on the environment, and we need to know so that the members of the planning profession in Trinidad and Tobago will be always in line with what is happening, keeping up with international standards. So it is in that light, that I make these two proposals for adding these things onto the functions of the council.

Madam Chairman: Sen. Mark.

Sen. Mark: Yes, I just want to add to what Sen. Thompson-Ahye has said for the consideration of the Attorney General. 6(c), Madam Chair, “monitor adherence to the Code of Ethics”, I am asking the Attorney General to consider the following:

“monitor adherence and to investigate breaches of the Code of Ethics.”

So that is one area I would like him to consider, through you, and secondly, to consider including another section—

Madam Chairman: Sen. Mark, when you say including, are you proposing further amendments?

Sen. Mark: Yes.

Madam Chairman: Further amendments to your amendments?

Sen. Mark: Yes.

Madam Chairman: You did not seek an amendment to clause 6.

Sen. Mark: Yes, I am very conscious of that, but you know, Madam Chair, these are very important matters and—

Madam Chairman: No, no, I am listening.

Sen. Mark: Thanks for accommodating me, Ma'am. I will ask the Attorney General to consider this one as well, and that has to do with, to regulate the practice of urban and regional planning in accordance with this Bill. So in other words, Ma'am, those are the two areas I would like the hon. Attorney General to consider in clause 6 as part of the functions of this council.

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, if I may address Sen. Thompson-Ahye's proposals? We too have accepted that the word "to" is preferred in C of Sen. Ahye's position. Those are captured in our amendments when we come to that. Let us deal with B, (i) and (j). The promotion of continuing professional development I agree is a very laudable and important process, but that respectfully is something to be dealt with by the Trinidad and Tobago Society of Planners. The function of the council is different. The council is to license. The council is to "keep the administration of this Act"; "(b), register and license"; "monitor adherence to the Code of Ethics"—and that takes me to Sen. Mark's recommendation just now—"institute disciplinary proceedings", et

cetera.

So the recommendation coming to us when we looked at this issue—because we have put “continuing professional development”, it is a very important point. The dentists are looking at it right now, lawyers are looking at it right now, doctors are looking at it right now. This is a matter for the Trinidad and Tobago Society of Planners to encourage in their law the development of continuing professional education. The difficulty with (j) is that you will be making recommendations to yourself, making recommendations affecting, or relating to, the planning profession to the general meeting of the council. So what we are saying here is that the council should have a function to make a recommendation to the council, and therefore, that respectfully does not sink in with how they are committed to operate.

Relative to Sen. Mark’s positions that they investigate breaches, but that is in another section. That is in the Disciplinary Committee’s positions. That is why we put a JLSC-type person, an attorney-at-law. If we looked to disciplinary proceedings, it is under Part VI. We looked to the establishment of the committee, we have a committee with “an Attorney-at-law ten years standing who shall be”—a—“Chairman”. So the Disciplinary Committee is the entity to manage that. So I agree with Sen. Mark investigation of breaches is there, but that is respectfully taken up in Part VI of the Bill, clauses 50 onward, and the Disciplinary Committee is in the 40s, sections 43 onward.

Sen. Mark also asked about regulation of the practice of urban and regional planners. The council in its position here of registering and licensing, and then subjecting to disciplinary committees via a process of recognition, which is a separate committee done, does in fact arrange those positions. So I will respectfully not accept Sen. Mark’s recommendations for the reasons volunteered,

and I will humbly request that Sen. Thompson-Ahye allow us to allow the Trinidad and Tobago Society of Planners to take on that obligation in the amendments to their law because that is the correct law to treat it under.

Sen. Thompson-Ahye: I would go along with the Attorney General's word that he has given. Thank you very much for that suggestion.

Madam Chairman: So are you withdrawing?

Sen. Thompson-Ahye: I would not pursue it. I will trust him on this one.

Amendment [Sen. H. Thompson-Ahye] withdrawn.

Madam Chairman: Sen. Mark, are you still seeking your amendments?

Sen. Mark: No, I just put out that for his contribution.

Madam Chairman: Sure. Attorney General, you have amendments proposed for clause 6?

- A. In paragraph (a) delete the words "for amendments to this Act";
- B. In paragraph (i) delete the word "in" and substitute the word "to".

Mr. Al-Rawi: Yes, Ma'am. I thank Sen. Thompson-Ahye for making the recommendations that the hon. Senator has, two parts before us as circulated, part A and part B. We accepted those recommendations coming from the debate and we propose in 6(a) to delete the words "for amendments to this Act". And then in part (i), I thank Sen. Thompson-Ahye for saving us from poor drafting. Very important, the hon. Senator is perfectly correct that the word "in" should in fact be "to". It is a material difference. So those are the recommendations before you, Madam Chair.

Madam Chairman: The question is that clause 6, be amended, as circulated, by

the Attorney General.

Question put and agreed to.

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

Clause 7.

Question proposed. That clause 7 stand part of the Bill.

Sen. Deonarine: Thank you, Madam Chair. I just wanted to ask the question—I think Sen. Richards raised it in his debate—would there be consideration to giving a time limit on the term of “reappointment”?

Mr. Al-Rawi: Madam Chair, I say this to people like Sen. Thompson-Ahye who have taken up the load of public service on their back in many a committee. The hon. Senator served, for instance, on the Children’s Authority. It is not very often you get somebody who is willing to serve in public life, and whilst fixed terms sounds good, the ability to take that load on your back and work in a society as small as Trinidad and Tobago often becomes difficult. So for those reasons we have resisted putting limits on tenure. The only law that I recall recently that we did that, is in fact in the public procurement law where we made sure that the public procurement regulator was treated differently because there is a difficulty with entrenchment for that long a position. But because it is such a small society of persons, urban and regional planners, to put a fixed term limit that they cannot go beyond a certain time, may unfortunately leave us without enough capacity to run the council. So for those reasons we would not accept that recommendation.

Sen. Deonarine: Madam Chair. But Attorney General, in three years’ time—because the hold of office is for a term of three years—your expectation is that that pool of urban and regional planners would not get larger?

Mr. Al-Rawi: My fear is that it would not be large enough. I do not know how

many people actually go into the profession in the first place. It is cyclical. We are in a decline in the economy right now, construction, et cetera, unless we spend our way out as we intend to do, is in difficulties. To put in a term limit now where we do not know what the capacity looks like, would be, I think, putting the cart before the horse. If the society is large enough then we can, but if we look to the Law Association, dental council, medical council, engineering board, land surveying board, I mean all of these professions have no term limit. So why should this one be different? What is the mischief that we need to compel ourselves to consider on this occasion here?

Sen. Deonarine: No further comment, Madam Chair.

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

Clause 8.

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

Madam Chairman: There are two sets of proposed amendments, Sen. Mark and Sen. Thompson-Ahye. Sen. Mark.

Sen. Mark: Madam Chair, again you would see in clause 8 the preponderance of power in the hands of a politician who happens to be a Minister, and you are seeing where the person is going to be removed. So before I go to my substantive I just want to ask the Attorney General, through your good self, whether there should not be some checks and balances here “remove with the agreement or consent of the Cabinet” rather than the Minister having that unilateral power. So, Ma’am, that is the first thing, and let me get to the other areas immediately. Madam Chair, when you go to 8(3)(b), it is a bit open. If I missed three consecutive sittings of this House, then I agree you remove me. But if I missed three consecutive meetings with your approval, or with your leave, then that is a different ball game. So I am

suggesting that this is rather open and too loose, and I am proposing the following that I have circulated:

“...leave of the Board from three consecutive meetings of the Council.”

And the other one, Madam Chair, I find (c) is a bit convoluted and I sought to bring some clarity, “convicted of an offence” and the rest I do not have to read. So these are just to tidy up the language and to make sure that there is no arbitrariness or whimsical actions on the part of the board as it relates to someone who might miss three consecutive meetings. So, hon. Attorney General, through you, hon. Chair, I think you should consider tightening these provisions. Madam Chair, I put it in your hands.

Mr. Al-Rawi: Madam Chair, I thank Sen. Mark. I think that we can improve the absent for three consecutive meetings. I think it is commendable to insert, as Sen. Mark proposes, “absent without leave”. Unfortunately, paragraph (c), as Sen. Mark has proposed, is, I think respectfully, better stated in the paragraph (c) that we have. So subclause (3) of this clause (c) says, our version:

“convicted, in any court, of a criminal offence under this Act or which carries a penalty of imprisonment for a term of six or more months;”

Sen. Mark’s submission is:

“convicted of an offence punishable by imprisonment for six months or more for an offence under this Act.”

So the CPC is telling me that we both agree to the same spirit, but the CPC tells me that he prefers his draft of (3)(c). If Sen. Chote was here I would say “meh senior tell meh to say that” because we are dealing with Mr. Macintyre of Senior Counsel.

So, Madam Chair, I would happily accept the “absent without leave”. So it would be absent without— *[Interruption]* So because there is no board I would not accept the wording that Sen. Mark has put per se, but I would go with in subclause

(3)(b), “absent” insert the words “without leave” and then that would be it, “from three consecutive meetings of the council” because Sen. Mark is correct you could find yourself inadvertently in a position like that.

The CPC is telling me that the person who grants the leave ought to be stated, in this case it would be the chairman, “without leave of the chairman”, so that way you would have a process. Same way we write the Speaker to say that we would be absent from the jurisdiction or as it may be. So “absent without leave of the chairman”. So, Madam Chair, would Sen. Mark amend his proposals to clause 8?

Sen. Mark: I withdraw.

Mr. Al-Rawi: Okay.

Madam Chairman: So Sen. Mark has withdrawn his proposed amendment. Sen. Thompson-Ahye.

Amendment [Sen. W. Mark] withdrawn.

Sen. Thompson-Ahye: Sen. Mark’s proposal, “convicted of an offence punishable by imprisonment for six months or more”—

Madam Chairman: Sen. Thompson-Ahye, that has been withdrawn.

Sen. Thompson-Ahye: Oh, I am sorry.

Madam Chairman: So I am asking you to treat with your proposed amendment.

Sen. Thompson-Ahye: I am proposing that the Minister—when we look at 8(1) we have:

“...shall become vacant...”

When we look at 8(3):

“may, by letter...remove the member from office...”

As I spoke to in my contribution it seems that one was mandatory and the other one was discretionary, and I thought that the more serious offences were the ones

that seem to be discretionary. And having regard to the fact that we expect in this profession people of integrity, I thought that it certainly should be once you have proof of the matters listed herein that these things have been committed that really that person should not continue as a member holding office, and it is in those circumstances I made those proposals. When I say upon proof of the matters, I expect that some medical person would be able to say that the person cannot function because of physical or mental illness. The question of the records I certainly agree with what Sen. Mark agreed, but conviction in a court and misbehaviour in office, declared bankrupt, disqualified or suspended, that those things should not be optional or a matter of discretion.

Mr. Al-Rawi: Madam Chair, there was the TTPost case which went actually to our court, and the courts in Trinidad and Tobago have settled now as a matter of right that he who appoints can disappoint, or remove, and that springs from the Interpretation Act itself. What we are doing in subclause (3) is to set out the reasons that are known to us in every piece of law, and what we have done is to keep it in harmony. The recommendation of proof becomes a little bit difficult because one has to bear in mind that you always have the right of judicial review if you say that you are improperly removed.

But if we put a step that the Minister upon proof of the matter as listed herein shall by letter address to the member removed, then that is to put a function to the Minister that we respectfully believe ought not to be there. It is to put a second step. It would delay the relief that someone has because a judicial review court acting under section 14 of the Constitution in particular would have to establish that the Minister did what the Minister should first and then deal with the process there. So we would be inadvertently introducing a hurdle to the right of the person who is aggrieved in the section 14 application and judicial review

application.

Madam Chairman: So, hon. Senators, the question is that clause 8, be amended, as circulated, by Sen. Thompson-Ahye.

Question, on amendment, [Sen. H. Thompson-Ahye] put and negatived.

Madam Chairman: Hon. Senators, the question is that clause 8, be amended, as follows at 8(3)(b):

By inserting the words “without leave of the chairman” after the word “absent”.

Mr. Al-Rawi: Madam Chair, we put the word “the”, “without the leave of the Chairman”. Sorry about that, Madam Chair, and I thank Sen. Mark for the amendment.

Madam Chairman: The question is that clause 8(3) at (b) be amended as follows:

By inserting the words “without the leave of the chairman” after the word “absent”.

Question put and agreed to.

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

Clauses 9 to 26.

Sen. Mark: [*Inaudible*]*—*that at least—Madam Chair, at least we could be consulted. No, I may not have anything, but there are matters—

Madam Chairman: All right. Just one second, Sen. Mark.

Clauses 9 to 14.

Question proposed: That clauses 9 to 14 stand part of the Bill.

Sen. Mark: Thank you so very much, Madam Chair.

Madam Chairman: Hon. Senators—

Sen. Mark: Madam Chair, I told you thank you because I was going to make a point and you proceeded.

Madam Chairman: I suppose, Sen. Mark, you are not—all right. Sen. Mark, which clause?

Sen. Mark: I am sorry, Ma'am. It is 9 to 14 right?

Madam Chairman: That is correct.

Sen. Mark: Okay, I think I stand corrected.

Question put.

Madam Chairman: Sen. Mark, you would see how I am smiling here if only I did not have on this mask.

Question agreed to.

Clauses 9 to 14 ordered to stand part of the Bill.

Clause 15.

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

Mr. Al-Rawi: Madam Chair, coming out of Sen. Thompson-Ahye's recommendation for the insertion of the definition of "planner" I think that what we can do in clause 15 is to modify it somewhat, "No person shall practise"—if we delete the words "as an" and change "planner" to "planning", then it sort of bridges the gap to what Sen. Thompson-Ahye was initially referring to and which I have given an undertaking to check. So the proposal is that we amend clause 15, subparagraph (1), by deleting the words "as an" and deleting the word the "planner" and replacing it with "planning". "No person shall practise urban and regional planning in Trinidad and Tobago", and it would pick up the definition of urban and regional planning therefore.

Madam Chairman: Sure. Sen. Mark.

Sen. Mark: Madam Chair, through you, to the Attorney General. Attorney General, if you go to subclause (3) or 15(3) and we go to (iii) and (iv) respectively, are we trying to indicate after (iii) "Bachelor of Science degree", there is the word

“and”, AG, you are seeing that?

Mr. Al-Rawi: Yes.

Sen. Mark: Are we saying that the person must have these two sets of degrees in order for that person to really make an application under subclause (ii), or it is “or”? I was looking at that one, Madam Chair. We have “and at least two years”, “or”. So I just wanted to ask the Attorney General to clear the air on that. And whilst he is doing that, Madam Chair, may I ask you to look at 8(3)(c). Madam Chair, I am seeing where if you are going to give someone—someone is being asked who is being given a temporary licence under section 19, must a certificate of good character. That is like a police certificate. Why only if you are getting a temporary licence? Madam Chair, we have provisional and we have permanent. So there is permanent, provisional, and temporary, and I am suggesting for the hon. AG’s consideration that this certificate of good character be across the board, whether you are provisional, temporary, or permanent. These are the two areas, Madam Chair, under 15, I would like the hon. Attorney General to consider.

Sen. S. Hosein: Thank you very much. Madam Chair, one of the qualifications in order to obtain a licence pursuant to 15(2) is that the applicant shall be proficient in English language, but when you look at sub (3) there is no requirement for them to produce evidence that they are proficient in English language. I say this for really in particular those persons who come from other jurisdictions who may be applying for a temporary licence because there is a history of Trinidad and Tobago having persons from other countries who would have been engaged to provide services in terms of development especially in terms of agreements we have with the Chinese Government. Whether or not we want to restrict it to having only planners who are proficient in English because sometimes they come here as consultants and they may be consulting with persons who can speak both

languages.

Mr. Al-Rawi: So, Madam Chair, Sen. Mark has picked up on something important in subclause (3) and I believe that he is correct and that we need to cause an amendment. So would you permit me, Madam Chair? So we have:

(a) evidence of—; (i); (ii), I am proposing after the “;” at (ii) to insert the word “and”. And then (iii) would begin “at least” and if we insert a “—” here after “least”. We would insert here now a “(A)” just before the word “three years”. Where the word “and” appears after the “;” in that paragraph, delete it and put the word “or”. And then we delete that “(iv)” and the words “at least”. So delete “(iv) at least” and insert a “(B)”. So the chapeau to (iii) is: “at least—

“(A) three years post...experience...”

And then (B) would be “two years’ post...experience”, et cetera. So I think Sen. Mark is perfectly correct in his observations there and I thank him for it.

6.10 p.m.

With respect to the submission made by Sen. Hosein, there is the risk—and I do not mean to be cheeky here—of being lost in translation. So we really do want to have English language as a requirement for the temporary licensing because remember it is to practice this position.

Sen. S. Hosein: AG, then in that case, you will have to ask for proof of proficiency in the English language, especially for jurisdictions where English is not their mother tongue. Because if you look at the requirements under 3(c), there is no requirement that those who are applying for the temporary licence have to prove it or show evidence that they are proficient in English.

Mr. Al-Rawi: Okay, so let us go to the original mischief. Would you mind, Madam Chair, with your leave, so I can understand correctly what Sen. Hosein is

referring to me? Would you mind taking me to where you suggest the first place of English language requirement is?

Sen. S. Hosein: No, what I am saying, we could leave it where it is currently, right, but when you are looking at 3(c)—

Mr. Al-Rawi: For temporary.

Sen. S. Hosein: Yeah, in the case of temporary licence, we could also indicate that they should have some level of proof there, at that subclause in particular that only deals with the temporary licence.

[Device goes off]

Mr. Al-Rawi: Okay.

Madam Chairman: Anyone who has your devices on, please, please take it off.

Mr. Al-Rawi: All right. So 15(1): name, place, holds valid licence under 16, 18, 19 and 19 is the temporary licence. Right? Subclause (2) applies to all of them:

“An applicant for...”—licences in all categories—“shall be proficient in the English language and shall submit to the Council an application in the form set out in the Second Schedule together with the fee...”—set out—“in the First Schedule to the Council.”

So let us out of caution, check the Second Schedule. So:

“Application for a licence

I...apply for a (Professional/Provisional/Temporary)...”

So it is all licences: copy of ID, professional qualifications, good standing, recommendation, any request of persons for professional experience for two years, provisional temporary.

“I declare that I am...proficient in the English Language.”

So it is caught. It is in the Second Schedule, it is in 15(2) so therefore that it attaches to all three categories.

Sen. Sobers: Chair, just for clarity. Section 15 deals with the application that someone must make to be placed upon this register to practice in urban and regional planning, but then when you look at 15(3) and you will see the qualifications for the person and they are making the actual application, you have 15(3)(iii) and (iv) dealing with a person who has a Master's or a BSc and that they have to have post-qualification experience in work relating to urban planning, so possibly attached to some type of urban planning firm or something. Right? But then at 15(3)(b), I am wondering if the wording is correct in terms of the:

“recommendations from two Urban and Regional Planners attesting to the applicant's fitness and ability to practise urban and regional planning in Trinidad and Tobago;”

I juxtapose it in my mind with what we do when we are being called to the Bar here in Trinidad and in terms of the testimonies that are done, it is more on the line of a training something as opposed to indicate—because an attorney would not be able to indicate that this trainee can practise because he has never practised but he has gone through a period of training where he—the wording for me was a bit confusing.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Thank you, Madam Chair. My question is with respect to subclause (3)(c)(ii):

“evidence that the applicant has not committed professional misconduct that brings the professional planning body in the jurisdiction...”

—and it continues. My question is: What exactly is that and how is it different from simply just asking for a certificate of good character from the respective country's planning body?

Mr. Al-Rawi: Yeah, so both questions from Sen. Sobers and Sen. Deonarine are

very important questions. Taking Sen. Sobers' point which is the parity that we engage in in the Legal Profession Act where you have to have done your pupillage or your in-service with someone to have that person capable of testifying that you are fit and proper. So two recommendations go from attorneys-at-law to the President of the Law Association and then the President issues the certificate of "good character" for the purposes of a call to the Bar. So what I can point out to is that the Legal Profession Act does not say you have to do the in-service. The Act itself just says that the president of the association has to be satisfied that you are of good standing, good character, so it is the same formula we have used here. How they operationalize that would be a different matter.

When you enquire of someone, well how are you certifying this person to know that they are good character? Well, let me draw the parity this way. When I, as Attorney General, seek an order for the admission of a Queen's Counsel to Trinidad and Tobago, pursuant to section 15 of the Legal Profession Act, I do not know him at all. What I have is the evidence of his good character from a professional body elsewhere, grazing, the societies, in a Bar, et cetera. So the law currently recognizes that you can have that certification in different routes. We have borrowed it from the Legal Profession Act for example so that the good character, the good standing testimonials are there.

To answer Sen. Deonarine's position, the evidence that the applicant has not committed professional misconduct, putting it in a positive expression as to that means that the professional society from where they come must specifically address that point. Faris Al-Rawi is a person in good standing and he has not committed professional misconduct that brings the profession into position. So we are putting a specific question to them as opposed to saying well, do your records show this man in good standing? We are asking: Does he have professional

misconduct? So we are asking a specific question.

Madam Chairman: So, Attorney General, just one quick question before I put the question on the amendments in clause 15(1), where we are removing the words “as an”. The question is whether “urban and regional planning” should be in capital letters or as set out on page 5 in the definition section.

Mr. Al-Rawi: It should be in lower case, Madam Chair, to catch the defined term. Thank you. Apologies.

Madam Chairman: Sure. So hon. Senators, the question is that clause 15 be amended as follows:

At 15(1), by deleting the words “as an”.

“Urban” will be lower case, “Regional” and “Planning” will be lower case. So “Planning” is substituted for “Planner”.

Then at 3(a), after the word “Council”, inserting the word “and”

And then at 3(a)(iii), inserting a dash after the word “least—(A)”

And then after “degree;” the word “or”

Then delete (4) and the words “at least” and insert the “(B)”.

Mr. Al-Rawi: Yes, Ma’am.

Question put and agreed to.

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

Madam Chairman: Attorney General, at this stage, would you—

Mr. Al-Rawi: Madam Chair, only because there is a consequential amendment which is very easy, to clause 18. Would you mind taking that because we would lose track of it?

Madam Chairman: To clause 18?

Mr. Al-Rawi: Yes. In light of what we just did, clause 18—

Madam Chairman: Could we just note it because I am sure if I go to introduce

clause 18, there will be—

Mr. Al-Rawi: Sure, sure, as you please Madam.

Madam Chairman: We just took 19 minutes to deal with clause 15. Yeah, so let us just note it for the next committee meeting. Yeah?

Mr. Al-Rawi: I am guided.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, in accordance with Standing Order 68(14), I beg to move that progress on the Urban and Regional Planning Profession Bill, 2019 be reported to the Senate.

Question put and agreed to.

Senate resumed.

Madam President: Attorney General.

Hon. Al-Rawi: Madam President, I wish to report that a Bill entitled the Urban and Regional Planning Profession Bill, 2019, was considered in committee, however the deliberations on the Bill were not concluded. I therefore seek the leave of the Senate to resume the committee stage on Tuesday, June 16, 2020.

Question put and agreed to.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. I beg to move that this Senate do now adjourn to Monday, June the 15th, 2020 at 10.00 a.m. During that sitting, we will be doing the Variation of Appropriation Bill.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised on the Motion for the

adjournment. Sen. Mark.

National Lotteries Control Board
(Recruitment Policy)

Sen. Wade Mark: Thank you, Madam President. This matter concerns what I call the pollution or contamination of the recruitment process at the National Lotteries Control Board. Madam President, as you aware, the National Lotteries Control Board is a statutory authority and is independent and it is governed by the Statutory Authorities Service Commission. That body which has constitutional validity is responsible for the appointment, the removal, the discipline, the transfer of employees falling or coming under its remit. And it is in this context, we have observed “ah certain kinda ah wildness” taking place at the National Lotteries Control Board where the independence of the SASC seems to be compromised and undermined.

Madam President, I bring to your attention a letter dated November the 20th, 2019, and addressed to one Wendy Dwarika who is the Financial Comptroller at this National Lotteries Control Board and it has to do with the appointment to act as the Director of NLCB. This letter is not coming from the SASC because this person is acting for the Director who is out of the jurisdiction for two weeks. But instead of coming from the Statutory Authorities Service Commission, it comes from the Ministry of Finance and the letter is signed by the Permanent Secretary in the Ministry of Finance and it is just one sentence, Madam President:

I am to inform you that you have been appointed to act as Director of National Lotteries Control Board for a period of two weeks with effect from November 20, 2020.

So, Madam President, I bring this matter to your attention and to the honourable body's attention because it seems as if there is a kind of attempt, I should say, for

the Government, through the Ministry of Finance, to take upon itself responsibilities that ought to be properly executed by the SASC. So I would like the hon. Minister to clear the air on this matter so that we in Trinidad and Tobago can understand exactly what is taking place.

Madam President, we have another episode at this body where someone is recruited—even though the NLCB has a communications department or unit or people who deal with communications, they have people who are involved in advertising their products, and without no public advertisement, the NLCB, acting on the advice of the Ministry of Finance, recruits someone called Rhoda Bharath for \$20,000 a month. Now, Madam President, I do not mine, you could recruit who you want but you must do it properly and there is no evidence that any advertisement went out there so that the public of Trinidad and Tobago can respond accordingly and get an equal chance at the table.

So what we have here, I have board minutes of the corporate secretary concerning the engagement of this individual and exactly how it was done. I have it in black and white. Madam President, you recruit someone without advertisement to do damage control as they say or claim but you know what that person is getting per hour according to the agreement that I have before me?—\$750 per hour. That person is allowed to work for 20 hours a month and any work exceeding 20 hours per month will be charged at an hourly rate of \$750 per hour. I am talking about the recruitment for an individual where there was no proper advertisement and from my information that I have before me, that individual receives \$20,000 per month.

So you have a situation where it appears that the Ministry of Finance is running the National Lotteries Control Board and the Statutory Authority Service Commission is being undermined because a director who is to act for a director

who is on leave is not taken by any decision of the SASC. It is taken, according to the correspondence I have before me, by the Permanent Secretary in the Ministry of Finance.

Madam President, I would want to ask the hon. Minister of Finance to give this Parliament an understanding of this recruitment policy at the NLCB, whether the Ministry has the authority to employ or recommend the employment of individuals without the appropriate advertisements and to the people of T&T. I would like the hon. Minister to outline whether there is a private recruitment policy at this particular body or board which is contrary to what exists at the SASC.

Madam President: Sen. Mark, your time is up.

Sen. W. Mark: Thank you, Madam President.

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. I am advised by the Permanent Secretary of the Ministry of Finance that the person in question that Sen. Mark referred to was never appointed to act as Executive Director. So that deals with that.

With respect to the second point, the Statutory Authorities Service Commission deals with permanent and pensionable positions within the Lotteries Board and what Sen. Mark has referred to appears to be some sort of consultancy position which has nothing to do with the SASC. Thank you very much.

[*Crosstalk*]

Madam President: Sen. Mark. [*Continuous crosstalk*] No, Sen. Mark.

Sen. Mark: My apologies.

Madam President: Sen. Obika.

**Former Petrotrin Workers
(Government's Failure to Support)**

Sen. Taharqa Obika: Madam President, the matter I choose to raise this evening is the failure of the Government to provide much-needed support to the lives and livelihoods of former Petrotrin workers affected by the 2018 restructuring which we now know has resulted in the complete shutdown of Petrotrin and has had a deleterious effect on the communities in south Trinidad. I wish to deal with the issue of the promises that these workers were given and the fallout to families, reduced access to health care, competition for jobs in a narrower job market, the impact on the broader community and of course, economic justice.

Now, this Rowley Government effected the single largest blow to the economy of south Trinidad by the closure of Petrotrin and Trinmar. Every citizen of Trinidad and Tobago, especially those connected to Petrotrin, whether they were employees of Petrotrin, whether they were family members of employees of Petrotrin and Trinmar, whether they simply lived and did business in these communities that benefited from the employees of Petrotrin and Trinmar, whether it be Marabella, Fyzabad, Penal, Siparia, Palo Seco, La Brea, Point Fortin will never forget when the Prime Minister said that Petrotrin will not be shut down, only to realize that that is exactly what the Government did.

The closure of Petrotrin also significantly negatively affected the health care needs as these needs were also promised to be taken care of. So when Petrotrin was being closed down and it became apparent to every citizen that the Government did in fact make an about-turn on their word and was closing down Petrotrin, the promise was to these workers and their families and the 6000-odd retirees, that their health care will be taken care of. We now see that that too was false.

The other issue that was important to every citizen in Trinidad and Tobago was that the assets of Petrotrin will be properly secured by the State. We now live

to see workers operating as security officials getting less than 30 per cent salaries of the Petrotrin police and the resulting decline in the quality of security for the assets of Petrotrin, not to mention the rumours and stories of Petrotrin properties being appropriated by persons connected in some way rumoured to the Government. So you have bungalows being appropriated by persons across the entire south Trinidad. And then, of course, the greatest promise was that ex-Petrotrin workers will get lands.

So on my way to Parliament, an ex-Petrotrin employee said, “Ask about the land for the Petrotrin workers and their families.” I say to the ex-Petrotrin workers, the persons in those communities that this Government will promise you everything in the next three to six months, whenever the election is called, but if in 18 months they have failed to safeguard your health care, they have failed to honour the promise of not closing Petrotrin and they have failed to protect the livelihoods of the former Petrotrin workers, do not expect them to deliver on lands.

So what has actually happened is the Government has trampled on the rights of citizens to engage in an economic stake in this country. It has been economic injustice. What we need in this country is to write the historical wrongs, heal the gaps that prevail among different sectors in our society. But the closure of Petrotrin has resulted in reduced family incomes, salaries declining by as much as 70 per cent, persons who are skilled, besides the security officers who now have to work, may be at the same cost to the State, it is just that one contract goes—where the millions go to one company and the workers work for peanuts just above minimum wage, the ex-security officers from Petrotrin. You also have persons who were skilled hands, whether they be riggers, welders, fabricators, working now at significantly reduced rates. What we are actually doing is pushing the skilled labour force in the energy sector down the barrel of poverty with what has

happened post-Petrotrin. It will come as no surprise if these workers seek better fortunes elsewhere, draining the intellectual capacity that we have and the competitive edge that we have in the energy skill sector.

Depressed family income feeds the machine that is crime and if this Government has not seen that that singular action to close down Petrotrin and the failure to remunerate those energy sector workers adequately contributes to a level of poverty in our society then they too have failed. The reduced access to health care, the closure of the Trinmar health facility in Point Fortin and the other eight health facilities, including Augustus Long in Pointe-a-Pierre has resulted in an increased overcrowding at the established public health facilities.

6.40 p.m.

So you already—the health care system is already stretched. And this Government, through their incompetence, has caused now greater strain on the health care system in this country. That is a travesty of the highest order.

What also you are seeing is that there is a greater rate of competition for jobs. Because you have hundreds, thousands of ex-Petrotrin employees on the breadline, in environments where unemployment rates are higher than the national average. In the south-west peninsula, in St. Patrick County, the unemployment rate is in double-digits already, before the closure of Petrotrin. It is always higher than the national average. The closure of Petrotrin has resulted in much more persons chasing the even fewer jobs, with the closure of Petrotrin, collapsing the economy in those parts of the country.

But what is the broader community impact? Economic justice means that each person must have a stake in their country, an economic stake. It is not sufficient to say that we are Trinbagonians by birth and nationality. It is important

that we have a real stake in our country, sufficient ties. The closure of Petrotrin provides an opportunity to right the historical wrong of lands that were given via the hand of the Queen in the colonial era, to oil interests, to the people in south-west Trinidad, so that we in Trinidad and Tobago can take charge of our own destiny, by virtue of the use of these lands; land for the landless.

And those persons who wish to make economic benefit from the land, whether it be through agriculture, manufacturing, or what have you, let the people who were so dispossessed, not just the Petrotrin workers, because if you owned a parlour, a shop, a hospitality concern in the community, you too lost when Petrotrin was closed down. Every citizen, whether it be the taxi driver, or the gardener, lost personally, economically, financially, when Petrotrin was closed down.

So therefore, I call—Madam President, how much time I have left?

Madam President: A few seconds.

Sen. T. Obika: So I call on this Government to give the families land, land—the lands that Petrotrin controlled, to the people of south-west Trinidad. Thank you.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in addressing this Motion, I wish to remind this honourable House of the state of affairs of the former Petrotrin when this Government took office.

This was a company, Madam President, which was allowed to move from a net profit of 2.4 billion in 2011, to a loss of 4.3 billion by 2016, with a debt of 13.3 billion. Unpaid royalties and taxes to the State were in the sum of 3.2 billion. This parlous state of affairs was due to gross mismanagement and poor decision making.

In this regard, I want to refer to the findings of the Government-appointed

restructuring committee. And I quote:

"Today Petrotrin is overburdened with debt, which substantially results from poor investment decisions. It is unprofitable and the outlook is for a worsening of its operation unless there is capital injection."

To keep the company alive, Madam President, it would have required significant Government guarantees for loan capital, which would have adversely affected Government sovereign rating. Sen. Obika is an economist. This was threatening the national sovereign rating, which would lead to an increase in the cost of borrowing. This was therefore not an option, neither was the injection of funds from central government, which it did not have, which it just did not have as the economy—we were struggling to keep the economy afloat.

Indeed, the then board of directors examined the number of option, these included maintaining the status quo, upgrading and refurbishing the refinery and operating primarily as an upstream company. The maintaining of the status quo would have required an injection of \$25billion, added to \$13.3billion in loans. In its then current state, the company was projected to lose \$2billion per annum. A decision was therefore taken, in the best interest of the employees and the company, to reinvent the company to an upstream company spin-off the refinery business. By this decision, bankruptcy of the state oil company was averted. Let me repeat that. Bankruptcy of the state oil company was averted, and the pensions and other benefits of employees were for the most parts preserved.

In keeping with the collective agreement, the collective bargaining agreement, 4,626 employees, comprising 3,400 permanent and 1,226 casual and temporary workers and contracted workers received a staggering \$2.7billion in termination benefits. Madam President, this averaged per employee, a phenomenal \$583,657 per employee. Some would have received less than that. Some would

have received in the millions and a fairly large number. I have seen the list. Those at the top of the ladder. Most of them received in excess of \$2 million to \$3 million.

Madam President, as a caring and understanding Government, we did not abandon the former employees of Petrotrin. Outreach programmes were initiated. PEAPSL Consultancy service worked in collaboration with Petrotrin teams to provide employee assistance services, including psychological and financial counselling. The 24/7 hotline, 474-CARE, was also established specifically by the Petrotrin employees, and change management briefing and critical incidence stress debriefing was held across the entire Petrotrin network, from Guayaguayare, Point Fortin, Santa Flora to Pointe-a-Pierre.

In the restructuring, former Petrotrin employees were given an option to be rehired in Heritage and in Paria. In the case of Paria Fuel, out of 92 employees, which currently runs the trading company, 67 are former Petrotrin employees. And in Heritage Petroleum Company Limited, almost 70 per cent of the existing staff are former Petrotrin employees.

Madam President, recently Cabinet approved a policy framework for the distribution of residential and agricultural lots— plots, actually I should say, to former Petrotrin employees. The housing plots and lots are in various stages of development. All Petrotrin workers would be given, those that are qualified, housing lots. And those who are interested in agriculture would be treated just like the Caroni ex-employees, would be offered two acres of agricultural lands, largely lands that are owned by Petrotrin, or the Palo Seco Agricultural Enterprises Limited.

So we have saved a company. We have saved the national economy from a credit rating fall and we have actually saved Trinidad and Tobago from going into

the bowels and into the hands of the IMF.

In the turnaround, Heritage Petroleum Company Limited declared a profit of approximately TT \$1.4billion in its first year. Activities have now started to pick up in the south-west peninsula, in the La Brea constituency. In Point Fortin constituency, in particular, Trinmar is now producing almost 22,000 barrels of oil per day.

And Sen. Obika, I know he is contesting the Point Fortin seat, you will never see the House of Representatives, Sir. If you want, you can come back and sit right here in the Senate on the Opposition Bench. And to make it a good fight, we have put a young, dynamic mayor to contest.

But having said that, you speak of health care. As today, this morning, the Prime Minister cut the ribbon for the opening of the Arima Hospital, a brand new hospital built by the People's National Movement. [*Desk thumping*] Within the next two to three months, the Point Fortin Hospital is going to be opened; a state-of-the-art, modern facility. You know what Point Fortin Hospital was? It was the old Shell hospital and I have defined inertia in a country by checking the Point Fortin Hospital, you know. When Shell left Trinidad and Tobago in 1974, it left that hospital. Shell came back to Trinidad and Tobago in 2017, and met the same hospital. Today, before the end of this year, the People's National Movement Government would be opening a brand new modern facility called the Point Fortin general hospital.

So, Madam President, we have reinvented the State oil company. The Government has taken the decision to spin-off the refinery. The refinery has been offered to Patriotic Energies and Technologies Company Limited. We are in the final processes of consummating, so to speak, the deal. And we expect that deal to be signed very shortly, and Patriotic will start on refurbishing the refinery,

hopefully for a restart within one year of the signing of the agreement.

So in conclusion, Madam President, the Government took the correct decision and ensured the viability of the State's interest in the oil business. The initiatives that we have undertaken will over time work for the benefit and provide a measure of relief to former Petrotrin workers, to the people who live, in particular, in the south land and the south-west peninsula, and Madam President, I think we have taken the right decision and we have always, as a Government, operated in the interest of the people of Trinidad and Tobago. [*Desk thumping*]

Corpus Christi Greetings

Madam President: I now invite Members to bring greetings on the occasion of the celebration of Corpus Christi. Minister of Trade and Industry.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Madam President. It is an honour to bring greetings on the occasion of Corpus Christi. The annual feast of Corpus Christi is a Christian observance that celebrates the Holy Eucharist, the body and blood of Christ. It is the most solemn occasion celebrated with holy Mass, as the Eucharist is central to Christian spiritual life. It is a time, dear colleagues, to give thanks for Christ's presence with us in the Eucharist. On Thursday, thankfully, we are able to receive the gift of the Eucharist, the Host, after more than two months, and we will do so with much gratification and joy in our hearts.

Corpus Christi is a public holiday and we expect the rains, and it is well known that whatever we plant, it will certainly thrive. So whether you are a farmer or an avid gardener, or a first-timer, you got to plant something. Let us make it, on this Thursday, a true day of nourishment in the Body of Christ, giving food for our soul, and in planting, perhaps planting food for our nation.

So, Madam President, from the Government Bench to you, to all of our

colleagues in the Parliament and to the parliamentary staff, we wish a most happy and a holy Corpus Christi and, again, I urge you to plant something. Thank you.

[Desk thumping]

Sen. Sean Sobers: Madam President, I am pleased to bring greetings to the Roman Catholic community of Trinidad and Tobago on the commemoration of Corpus Christi, the Body of Christ. The most sacred solemnity in the Roman Catholic calendar celebrates the tradition and belief in the Body and Blood of Jesus Christ and His real presence in the Holy Eucharist.

When we consider what we have seen as the new normal, when asked to social distance, to distance from each other socially, we have still found ways to come together as a community. During this pandemic period, I saw people volunteering, giving of their time, money and anything they had to offer assistance to their fellowman. It was a true demonstration of what it means to be one body, a lesson that must be at the front of our mind when we celebrate on Thursday.

We are blessed in Trinidad and Tobago to have people of strong faith and a nation in which many religions, ethnicities and cultures live together in harmony. We are blessed to live in a land where we all celebrate each other, where we incorporate local traditions and create a uniquely Trinbagonian experience. Locally, one of the traditions of Corpus Christi is planting seedlings or trees as it is considered a perfect time for this activity, and it is believed that anything planted on this day will thrive.

I would like us to plant the seeds of brotherhood and camaraderie, that we can go forward and the new normal can be one where we continue to live in service of each other and our country. Let ensure that we strengthen the values of mutual respect and trust and deepen the bonds of friendship amongst all citizens in our country. Just as the belief that planting on this day brings the best harvest, so too

must we consider that devotion on this day will renew our strength, pride and unity. The Leader of the Opposition always tells us to put God in front and follow him in all that we do and hope to accomplish.

On behalf of the Opposition United National Congress, I extend Corpus Christi greetings to the Roman Catholic community and all citizens of this nation. May God bless our nation. [*Desk thumping*]

Sen. Paul Richards: Madam President, it is an honour to be able to bring Corpus Christi greetings on behalf of my colleagues on the Independent Bench.

Corpus Christi is a Latin phrase that refers to the Body of Christ. The event commemorates the Last Supper on the day before Jesus Christ's crucifixion as described in the *Holy Bible*. Corpus Christi is primarily celebrated by the Roman Catholic Church, but it is also included in the calendar of some Anglican churches.

The festival and celebration of Corpus Christi celebrates the Eucharist, which is the Body of Christ. The jubilant festival is celebrated by Roman Catholics and other Christians proclaiming the truth of the transubstantiation of bread and wine into the actual Body of Christ during Mass, which symbolizes his sacrifice for us. The significance of the feast is not lost upon us as citizens in Trinidad and Tobago and around the world today. Because although you may not be Christian, or Catholic, certainly it has resonance in the demonstration of values of love, forgiveness, compassion and sacrifice.

At this time, as has been elucidated by my colleague, the Minister of Trade, it is the first time Christians and Catholics would be able to actually partake in the Body of Christ on Thursday, because of the lifting of some of the restrictions and it is indeed going to be a joyous occasion.

We have also heard, as we all know, that Corpus Christi is a time when people plant stuff. They plant with the hope of a harvest in the future. And it is a

good time for us to reflect on what had been planted for us in the past and what we ourselves are planting for future generations, and what we are sacrificing in terms of securing the future of this country for generations to come. It is a time of contemplation, a time of reverence and a time of holy introspection. I want to urge all in Trinidad and Tobago to use this observance, whether you are a Christian or Catholic or not, to think about each other and what sacrifices you can make for those who may be less fortunate in society, as we have seen in the last couple of months and what we can do as individuals, in terms of nation-building and unifying us as a country.

On behalf of the Members of the Independent Bench, I would like to wish a holy, happy and celebratory Corpus Christi to the people of Trinidad and Tobago, to you, Madam President, and your family, to the members of staff of the Parliament who sacrifice and support us every day, and for all the people around the world, in terms of a better future for Trinidad and Tobago and everyone around the world. Thank you. [*Desk thumping*]

Madam President: Hon. Senators, as you have already heard, Corpus Christi is the Christian celebration of the Body of Christ. It is a liturgical celebration in which Christians, predominantly Roman Catholic Christians, celebrate the transubstantiation of bread and wine into the actual body of Jesus Christ during the Mass. There is much to be learnt from this celebration, not only for Christians but for all people of all religions Corpus Christi reminds us that we are one body and one people. It reminds us that we too can be changed into higher, more meaningful forms of being. And it reminds us of the triumph of resurrection over death that no matter how dire our circumstances, there can and must be rebirth after destruction.

As Trinidad and Tobago continues to deal with all of the challenges before

us, may the spirit of this celebration enliven and inspire us to be one people, joined forever in the pursuit of better and more meaningful lives, not only for ourselves but for all of human kind and for the generations to come after us. I wish, therefore, on behalf of the Parliament, a happy Corpus Christi to all of you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.01 p.m.