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**PARLIAMENT OF FIJI
PARLIAMENTARY DEBATES
HOUSE OF REPRESENTATIVES
DAILY HANSARD**

TUESDAY, 27 APRIL, 2004

**JOINT PARLIAMENTARY SELECT COMMITTEE ON
LAND**

HON. L. QARASE.- Mr. Acting Speaker, Sir, I beg to move:

That this House, relying on the frank and open-minded approach taken by the members of the bipartisan *Talanoa* Sub-committee in their collective effort to identify and build mutual understanding around the crucial issues on land contained in their progressive report to the Leaders;

Recognising the basic values, principles, and objectives of building trust and confidence, creating fairness and equity, providing best possible security, and giving optimum terms and conditions which underpin the land issues that emerged from the discussions in the *Talanoa* talks;

Acknowledging the efforts made in the past to establish a sound basis for legislating landlord and tenant relationship based on the understanding

and appreciation of the significance of land to culture, livelihoods, and the national economy;

Realising the urgent need to arrive at the resolutions to the land issues to meet the overarching vision of fostering the social and economic advancement of the landowner and tenant communities;

Mindful of the values and vision stated above:

Agrees to establish a 17 member Joint Parliamentary Select Committee comprising eight Government Members, the Leader of the Opposition, six Members of the Fiji Labour Party and two nominees of the *Bose Levu Vakaturaga* in the Senate, to make recommendations on the land issues with specific reference to the following -

- (1) The Joint Parliamentary Select Committee shall continue with the frank and open-minded approach of the *Talanoa* talks with a sense of urgency to arrive at the most satisfactory outcome for all, and adopt as its guiding principles the values of building trust and confidence; creating fairness and equity, providing best possible security; and giving optimum terms and conditions with the view to fulfilling the overarching vision of fostering the social and economic advancement of landowner and tenant communities, and shall:

- (2) Scrutinise and consider the important aspects of the issues on land relating to -
 - (a) tenure;
 - (b) rental;
 - (c) rental fixing mechanisms;
 - (d) rental assessment mechanisms;
 - (e) premium considerations;
 - (f) compensation on improvements;
 - (g) arbitration on disputes;
 - (h) good husbandry; and
 - (i) Any other related matters.
- (3) Ascertain the practicality and suitability of ALTA or NLTA with possible amendments;
- (4) Ensure that either option adopted incorporates the needs of landowners and tenants as currently safeguarded in ALTA and NLTA, and also satisfies the values and fulfills the vision stated in the guiding principles;
- (5) Commission a committee of legal experts to give advice, through a report, on legislative options referred to in (3) above;
- (6) Report fully on all the above matters and the proposed suitable legislation or amendments designed to achieve the present and future objective as set out in the guiding

principles; and

- (7) Submit their full report and recommendations by September 2004 at the latest."

HON. M.P. CHAUDHRY.- Mr. Acting Speaker, Sir, I beg to second the motion.

HON. L. QARASE.- Mr. Acting Speaker, Sir, today there begins a parliamentary process which holds out the very real promise of finally solving one of Fiji's most divisive, emotional and intractable problems.

The leasing of Fijian land and the land itself, goes to the very heart of our politics. They symbolise and define ethnic and cultural issues and differences. They carry with them the story of our modern history of long years of communal struggle between the Fijians and the Indians and a painful, sometimes bitter, search by both groups for what they consider to be justice and fairness. They have profound consequences for Fiji's economic welfare, and of course, for our vitally important sugar industry, which is also before this House. Most importantly, for thousands and thousands of poor people from all our communities, land is their means of economic survival. They desperately need us to find a lasting and workable solution.

Mr. Acting Speaker, Sir, the expiry of leases and their non-renewal, especially in the cane areas, has already created suffering which, in my view, could and should have been prevented. We all need to ask ourselves; why has it taken so long for us, in this House, to get to this point - to reach the stage where there is a very real prospect of agreement?

When the House met for the first time after the 2001 Elections, His Excellency the President, asked honourable Members to treat the lease question with urgency. He wanted

answers as quickly as possible. So far, our record on this has been less than successful.

Mr. Acting Speaker, Sir, I think the House has recognised that it is time now to change. It is time for us to start meeting our responsibilities to the people and the country.

The Agricultural, Landlord and Tenant Act (ALTA), currently governing agricultural leases, was enacted in 1976, as the successor to the Agricultural Landlord and Tenant Ordinance (ALTO) of 1967. It was known when ALTA was passed that this new law contained a flaw. We are living with the consequences of that now.

The legislators at the time, approved ALTA in their sincere belief that it was the best arrangement they could deliver in the circumstance. ALTA gave the tenants improved security of tenure, but it established leases with a finite life. They would last for 30 years, from the start of the original ALTO law.

Sir, 30 years and that was it. There was no system for renewal. A tenant wishing to continue would have to apply for a completely new lease. This might or might not be granted and it might not be on the same area of land.

The highly-charged Parliament proceedings of the 1976 debate produced a bitter rift in the National Federation Party (NFP), which then exclusively represented the voice of the Indian community. It became part of the differences which were to split the NFP wide open. The legislation was seen by one faction as progress for the tenants - a definite gain- and by others as a betrayal.

The political consequences of that are felt to this day. The then Attorney-General, Mr. Justin Lewis, told the Legislative Council in 1966 that there had to be a time when a tenancy should cease. There had to be a period for consideration by the native

owners and the Native Land Trust Board about what would happen to a particular piece of land. Mr. Lewis described the original legislation as buying a generation of time.

Mr. Acting Speaker, Sir, that generation has now gone. It ended in 1997 when the first of the 30 year ALTA leases started to run out. Governments and Parliaments since then have failed to reach agreement on a new Act which removes the serious defects of ALTA and is better for the tenants and the landowners.

ALTA has been discussed time and again. It has been studied, analysed and dissected. Efforts have been made to put into train procedures for negotiating a successor. They have come to nothing.

Meanwhile, of course, leases have been expiring. To the end of 2003, the total number which had run out was 5,565. Many of these were not renewed.

We know and the country knows, what the statistics mean. The end of the ALTA leases, as predicted, is causing great social and economic damage and uncertainty. More particularly, it means that many tenants, who previously had leases, are now cast adrift. Some have become squatters. This is the human tragedy of which I have warned. It is now happening and yet, Mr. Acting Speaker, Sir, the cruel irony is that a remedy is available. It was offered by the Native Land Trust Board, with the backing of the Government, nearly two years ago, based on the guiding principle of fairness to both the landlord and the tenant. Again I say, Parliament must ask itself why it has been hesitating and holding back? What has prevented us from acting to help the many families and farmers and the many landowners who look to us for help?

There can be no justification for further delay, no more excuses for prolonging the misery of ALTA's victims. On our side, we understand that the Fiji Labour Party must constantly

watch its back and look over its shoulder. Every move it makes on land is scrutinised by its opponents from the NFP. The NFP will not hesitate to go on the attack if it sees any opportunity for hurting the Fiji Labour Party in the never ending and sad saga of cane farming politics.

Already, we can see some of the battle lines being drawn. It has become plain what the main lines of assault will be. These will have little to do with the national interest and everything to do with factional politics and point scoring. At this critical and sensitive juncture, I urge moderation and restraint, and even sacrifice. Mr. Acting Speaker, Sir, I ask honourable Members of this House to consider the issues on what is best for the landowners, the tenants and Fiji, and to reach a consensus, which will help to take the nation forward.

Permit me now to thank honourable Members from both sides of the House for the work on land and sugar they have completed in the *Talanoa* meetings, convened by the East West Centre. The latest round of discussions confirmed the value of the *Talanoa* consultations as an appropriate forum for quiet, personal diplomacy, political engagement and consensus building. Let us trust that the *Talanoa* spirit will spread through this House.

Mr. Acting Speaker, Sir, it has been claimed often enough that our land problems, and specifically the question of lease terms, are so complex that they almost defy resolution, but is that really the situation? I think not. Answers are well within reach. In fact, when we think about the main parts of the problem, we can see how close both sides of the House are. Take, for instance, the length of the leases; there is general agreement that 50 years is acceptable. This is what is proposed in the legislation. From the tenants' point of view, this is a substantial advance on the 30 years legislated in ALTA, with no clause for renewal.

I should point out at this juncture that, as always, the NLTB is bound by Section 9 of the Native Land Trust Act. This

means that its first priority, by law, is to safeguard the interests of the native owners by ensuring they have enough land for their use, maintenance and support.

When we are determining new arrangements to be decided by this House, we must obviously provide enough flexibility to cover those instances when landowners might want to exercise their rights by leasing for a shorter period - say for 40, 30 or 25 years. The minimum, however, would be 20 years.

Government has sought agreement from the NLTB on this in order to take into account commercial considerations such as the need to borrow and a realistic repayment period. But essentially, we are referring to a 50-year lease, with a review in year 37 and a decision on the future of a tenancy by the 40th year. For the tenant, this means that uncertainty is removed and there is ample time to plan ahead. Lease extension is to be built into the legislation and extensions will be not less than 20 years.

We can confidently predict, Mr. Acting Speaker, Sir, that the landowners will be much more receptive to continuing a lease if they are receiving a fair and reasonable rental. As I have said before, the Fijians are very generous and accommodating if they feel they are being treated justly.

I will not go in detail into all the many failings of ALTA, but I am duty-bound to state once more that it has led to some of the world's lowest agricultural rental incomes. This has contributed to the impoverishment of landowners and has left them as the sugar industry's poor relations. I do not think that is a partisan statement, Mr. Acting Speaker, Sir. It is a demonstrable truth that we must face.

The existing ALTA formula provides for rent based on up to six per cent of Unimproved Capital Value, but in practice, it has mostly been two to three per cent. The reason for this is that ALTA permits tenants to apply to the Agricultural Tribunal for

lower rentals. Many of them do this successfully and the landowners then receive even less for their land.

The People's Coalition had earlier suggested a rental of up to 10 per cent of Unimproved Capital Value. We are taking this further and proposing a flat 10 per cent. I am sure honourable Members will agree that after so many years of the exploitation, ALTA permits, 10 per cent is not excessive and that it conforms to the guiding principles of fairness.

Mr. Acting Speaker, Sir, I can also report that the NLTB and the Government, as further consideration for the farmers, have agreed not to require by law the payment of goodwill by tenants before a lease is received. Tenants will not have to do this. Instead, we suggest payment of a premium on leases, which would be part of the assessed rental to be paid in advance.

The Government, additionally, supports inclusion of a tenant representative on the Committee of Valuers to determine Unimproved Capital Values. This will be a further reassurance to the tenants that their position is protected.

Let me go further still, Mr. Acting Speaker, Sir. I give an assurance that the Government will be open to suggestions for incorporating into the NLTA further provisions from ALTA to provide tenant security.

There is another issue I wish to put to the House. The sugar industry, which is so closely aligned with land policies, must be rebuilt on a foundation that is viable and strong. We cannot do that when the landowners' role is so marginal. Again, I do not think that that view is particularly partisan. It is something, which clearly needs to be corrected. Apart from social and moral principles, there is a matter of common sense and prudence.

Mr. Acting Speaker, Sir, we should not forget that sugar, which became so dominant in our economy, could not have

flourished and given a way of life for generations of our citizens, without continuing access to Fijian land.

Our purpose now is to promote a positive attitude among landowners to the industry and ensure that access continues. We can do that by giving them a fair return and increasing their stake in the industry.

In this way, they will become genuine and supportive partners, rather than outsiders looking in. That will be good for the industry and all those involved in it. Many more landowners are now taking up cane farming on their land. Let us give them all the support they need to become successful productive producers of cane.

Mr. Acting Speaker, Sir, there is an intense debate about whether ALTA or NLTA should be the legislation to govern agricultural leases. The Terms of Reference for the Joint Parliamentary Select Committee provides for the appointment of a committee of legal experts to consider and make recommendations on whether ALTA or NLTA would be the best option.

The Government side is quite prepared to give consideration to what comes out of these deliberations. In the meantime, Government will keep in abeyance two Bills it has published. This is the ALTA (Amendment) Bill and the NLTA (Amendment) Bill. I must, however, again state here the landowners concerns about ALTA and their desire for agricultural leases to come within NLTA. These sentiments are shared by the Provincial Councils and the NLTB.

The Great Council of Chiefs (GCC) has also resolved that native land should be excluded from ALTA. His Excellency, the President is familiar with this because he was previously a member of a GCC/NLTB negotiating team charged with representing the Fijian position. There has been no official

indication that the GCC's stance has changed. As far as I am aware, its earlier decision has not been rescinded.

To the Joint Parliamentary Select Committee now passes the responsibility for moving forward with further discussions and consultations. Its members will be asked to bring firm recommendations to this House for consideration in September.

Mr. Acting Speaker, Sir, earlier in this address, I referred to the generation of time bought by ALTA. We have within our grasp a solution to the leasing issue that will last not for a generation of time, but for all time.

This is a historic moment for this House and for our country. There is no question about that. What transpires here in the next few months on the land issue, will have a very large bearing on the country. It will test us as leaders, politicians and parliamentarians. We will either have the courage and vision to rise to the call of the nation, or we will be defeated and dragged down by narrower, partisan considerations. Let us not be found wanting.

HON. M. P. CHAUDHRY.- Mr. Acting Speaker, Sir, I cannot but emphasise to this House that it is extremely urgent to conclude a satisfactory agreement on agricultural land leases if we are to save our sugar industry and forge ahead with acceptable levels of growth in our economy.

Sir, the solution to the current land problems will have to be one that ensures the confidence and trust of all stakeholders that is the tenants and the landowners, in whatever is agreed to in the Select Committee. In other words, the stakeholders must have the ownership of the new arrangement.

Mr. Acting Speaker, Sir, the proposal before the Select Committee is to examine and decide on the practicality and the suitability of NLTA or ALTA, with possible amendments, as the

applicable legislation for agricultural leases on native land in the future. In doing so, the Select Committee will need to bear in mind that ALTA is an entrenched legislation in the constitution. It will have to consider the stability ALTA provided in the agricultural sector until 1997 (that is for a period of 30 years from 1967 to 1997).

The Select Committee will also need to be mindful of the problems created with the lapse of lease renewal provisions in ALTA; its adverse effects on investment in the agricultural sector generally and the sugar industry, in particular.

Mr. Acting Speaker, Sir, the tenant community has clearly aligned itself with ALTA. While the landowners seem to have a divided position on it, some favouring ALTA - with some amendments while others insisting on NLTA as being the new order. We all know and understand, Mr. Acting Speaker, Sir, that land is a sensitive issue in Fiji's political context. Not only that, it is also a highly charged emotional issue with the landowners.

While these sentiments are understandable, the tenant community also has to secure its own long-term interest if they are to pursue a livelihood based on tilling the land. If they do not feel sufficiently protected, the chances are that they will switch their livelihood to other opportunities in the economy to secure their long-term future. So, it is equally important that the agreement reached should guarantee the tenant community their legitimate expectations.

Mr. Acting Speaker, Sir, investment in agriculture presupposes on the tenant or the investors part, security of turnover based on long term leases, equitable rental and uninterrupted and full enjoyment of his tenancy during the currency of the lease and in accordance with the conditions of the lease.

For the landowners, it is a question of fair rental and access

to their land for their own livelihood when needed, and their expectation is also that tenants should abide by their lease conditions. So both sides hold legitimate expectations, viewing it from their own respective positions, Mr. Acting Speaker, Sir.

What is the problem then? The problem is how to reconcile these positions and deal with this matter, taking account of the interest of both the groups, and also the national interest, because in dealing with such situations, it is not impossible for people or groups to be carried away with their own position, irrespective of how it is going to affect them in the long-term and how it will affect the national interest, Mr. Acting Speaker, Sir.

The Prime Minister, in his intervention, asked why it had taken so long to come to grips with this problem? In other words, why had not this House or those who were responsible, dealt with it before it became a crisis?

Mr. Acting Speaker, Sir, I will attempt to answer that question in some form or the other. In 1992, when Parliament was first convened following the *coups* of 1987 - we did not have a Parliament for five years until we had elections in 1992 - in the opening of the new House of Parliament in 1992 by the then President, His Excellency the late Ratu Sir Penaia Ganilau, he told the House that there were two problems which needed to be attended to urgently to secure Fiji's future directions. One was a review of the 1990 Constitution and the second was a solution to land leases under ALTA.

He said that the 1990 Constitution had allowed a time-frame of seven years within which to deal with the constitutional problem, and he was confident that Fiji will have an acceptable Constitution from the standpoint of all communities by that time, in other words by 1997. Of course, on that count, the Members of Government and Opposition delivered and we had a new Constitution put through this House in 1997.

Mr. Acting Speaker, Sir, speaking on ALTA, His Excellency the President said that a solution to this problem would be found by 1995, that the Government needed a space of time of three years to deal with it. Now, we waited and it did not happen.

In February 1995, I moved a motion in this House, as the leader of the Labour Party then, and it must be noted that at that time, the National Federation Party was the dominant force in the Opposition in this House. I moved a motion, drawing attention to what His Excellency the President had said, and complaining that absolutely no action had been taken to engage the relevant parties in talks to find a solution, and we were already into 1995. I also said that the lease renewal provisions in ALTA would run out in September 1997. So we barely had two years within which to come to some kind of arrangement to give us continuity on that matter.

I received absolutely no support in this House to that proposition. The Government gave a terse reply that they knew what they were doing and they would deal with it when the time was right. The NFP said nothing about it. They just kept mum and quiet. So it was not for want of initiative or will on our part. I want to make this absolutely clear that we have been asking this House to take action, well recognising what lay ahead, as the late honourable Sidiq Koya had realised way back in 1976, when the debate on ALTA was taking place in the House. He did say that he was against the changes, the amendments that were being brought in 1976 to ALTO, and he did warn the nation that by 2000, we would be facing an immense human tragedy as thousands of leases will expire and he did ask what would happen to these people then. I also said to let us deal with the problem before it occurs, but of course, we did not get support.

By 1997, tenants started receiving notices from the NLTB that their leases would expire on such and such date. They had a grace period of 12 months, after which they must vacate the land because the landowners needed it for their own use, Mr. Acting

Speaker, Sir.

In February 1998 (that is after September 1997 when these notices started being served), the Rabuka Government proposed the appointment of a select committee in this House, to deal with the crisis to find a solution to expiring leases; something which I had asked him to do three years before. Now that motion, to appoint a select committee was seconded by the then Leader of the Opposition, Mr. Jai Ram Reddy.

The Committee was appointed in February 1998 but it did not meet, Mr. Acting Speaker, Sir, until May 1998, and that too, when we made a noise about it. Obviously, the Committee had been appointed a month before the Growers' Council's Elections in 1998, so the NFP could tell the people that they were doing something about the land issue, but no meeting was taking place. In May, we agitated and a meeting was scheduled. Again, nothing happened after that. It was just a preliminary meeting and the parliamentary records will bear this out, Mr. Acting Speaker, Sir.

Then another meeting took place in August, and in some of these meetings, we had the then General Manager of the Native Land Trust Board referring to what he stated was the Board's position. I remember quite clearly, Mr. Acting Speaker, Sir, him telling the select committee, in one of its meetings, that 80 per cent of land leases will not be renewed because the landlords wanted their land back. That was a categorical statement he made. Then we said, "What is the point in continuing with this committee if that is the position which the NLTB has taken; that it will take back 80 per cent of all leased land?" This was an authoritative statement coming from its General Manager. Maybe the Government should now make things very clear so that we do not pursue this in a committee quite fruitlessly.

However, before this, Mr. Acting Speaker, in 1996, the Ministry of Agriculture appointed a Review and Research Unit within the Ministry, to conduct investigations, to consult

stakeholders and come up with its recommendations on what should be the future arrangement for agricultural leases. The Ministry carried out this particular responsibility in a bi-partisan manner in that Unit with the Ministry of Agriculture. We had representatives from all political parties working as temporary civil servants. So the views of all political parties were fed into that particular Research and Review Unit, and it came up with the conclusion that ALTA was the best legislation to govern land leases. That was their recommendation.

When this was made known to the NLTB, the then General Manager of the NLTB was not happy with it. He engaged his own team to prepare their demands. This was released and, of course, it was quite radical. The then Minister for Agriculture, Mr. Militoni Leweniqila, was not satisfied. He thought that this was asking for too much and will be harmful to the native landowners in the long run, that is, the demands made by the NLTB in its own report. He then commissioned another study, an independent study engaging a gentleman by the name of Cyril Farrow, who had served here in Fiji for many years as a Valuer in the Lands Department and eventually retired here in the position of Agricultural Tribunal. He had wide experience in land matters.

Mr. Farrow came and his mission was to look at both the Reports; the Research and Review Unit of the Ministry of Agriculture Report and the Report of the NLTB, their own demands as to what they wanted, and then make a recommendation to Government. Mr. Farrow did exactly that and he concluded that, with some changes, ALTA must be retained. So, there you are. I am going back into history because I think there are very few on the other side of the House, who were Members at that time and who would probably know this. I would advise them to look up the records.

When we came into Government in 1999, by then of course, the automatic renewal provisions in the ALTA legislation had lapsed, and people were being evicted from the farms. We

realised the seriousness of the whole problem and in September 1999, we presented our own views on this matter to the full Board of the Native Land Trust Board. Our position was also that ALTA should be retained, but with some amendments to address the concerns of the landowners.

The Prime Minister referred to the People's Coalition Government proposal of 10 per cent rental. Yes, that is correct, but there were other conditions attached to it that there was to be no goodwill payment and that it was the responsibility of the NLTB to obtain consent from the landowners; that should not be a task left to the tenants. Even today, the legislation requires the NLTB to do it, which the NLTB is not doing. It is forcing the tenants to go to the landowners to obtain their consent.

It is not for the tenants to go and obtain the consent, the NLTB is the trustee and it should go and seek the consent of the landowners. If the landowners want their land back, fine, the NLTB should say; "sorry but the landowners want the land back for their own use". If they want to lease it, then the NLTB should make an offer on their behalf to the tenants. These were the conditions that were attached to it.

I believe, the Prime Minister also said that the Government is now willing to put in a representative of the tenant community in the Committee of Valuers. That was another concern that we had that the Committee of Valuers had no representation from the tenant community. There was a representative each of the NLTB (landlord), Government (landlord) and a so-called independent person appointed by the Minister but no representative of the tenant community. This was a flaw that had to be corrected.

Mr. Acting Speaker, Sir, in presenting that paper, we drew attention to all these matters and we suggested that a Subcommittee be formed to advise the Government. This Subcommittee was to be of three representatives from the Government side and three from the NLTB to look at the

Government's proposals, examine that in the context of the NLTB's position and make a recommendation. This Committee of course, had met three times before the *coup* of 2000 happened. That then is the history and explains why it has taken so long to come to some arrangement to resolve this problem. Had the previous Rabuka Government been more forthcoming, then it might have been possible for us to have dealt with this before 1997 in order to avoid the kind of tragedy that we see in the canefields today.

Now, one must also question; "What have been the benefits of this policy of indiscriminate non-renewal of leases?" We must accept that the decisions of the then Management of NLTB were highly charged politically. It was not a question of the landowners really needing the land and therefore your lease would not be renewed; it was just *en bloc*, no renewals because as he (General Manager, NLTB) had said earlier on that 80 per cent of leases will not be renewed, he was trying to pressure this side of the House or the representatives of the tenant community to concede to his demand by engaging in this kind of a process of wholesale non-renewals. What has it done for this country?

The Prime Minister pointed out that more than 5,000 people have not had their leases renewed and very few of them have been granted new leases. My own statistics show that more than 4,300 cane farmers have left the farm because they were not granted new leases. If we look at it in terms of what it has done to the sugar industry, our production of cane has decreased from generally around 4.2 million tonnes a year to below 3 million tonnes. Last year because of the drought, only 2.6 million tonnes of cane were crushed.

Mr. Acting Speaker, look at what has happened to Vanua Levu; have the landowners really benefitted from this? The answer is no, they have not benefitted. The Prime Minister spoke of Section 9 of the Native Lands Trust Act, that it requires the Board to ensure that the needs of the landowners are met first

before the land is leased out. This provision used to be quoted quite often and it was said by the NLTB Manager that ALTA stood in the way of implementing this particular provision. In other words, there was this provision in ALTA for a 20-year automatic renewal after the leases had expired. So, he argued that the landowners were unhappy, he argued, because upon expiry of the lease, there was a provision for 20-year automatic renewal. This was a result of the amendments made to the legislation in 1976.

However, this particular provision in ALTA had lapsed by September 1997, in other words, for all leases expiring after September 1997, there was no provision for them to be automatically renewed. It was entirely at the discretion of the landowners whether they wanted it renewed or not. ALTA had nothing to do with it and that is the situation today. Therefore, the landowner is now free to decide and is not compelled by anything in ALTA to extend leases. We are back to square one that is the situation.

As I had said earlier, that after an assessment is made and the landowners want to take their land back for their own use, they can do it, there is nothing inhibiting that in ALTA, anyway. But if they do not want to do that and they want to lease it out, then of course the landowners must expect to lease it out for an acceptable period to the tenant. The tenant is not going to take a short-term lease on agricultural land. No investor in the agricultural sector is going to come and invest, if he has not been given a sufficiently long term tenure. Agriculture is very different from other kinds of investment.

It is a matter now that will go before the Select Committee. All these issues have to be aired in this House to perhaps state our position clearly lest it be distorted by our Opposition. The records have to be put right. We have now agreed to go into a Select Committee to hold these discussions and try to sort out the problems that we face to see that we are able to achieve, through

our own discussions and deliberations, a common position on the issue, based on each side being satisfied with it and it being in the national interest.

Mr. Acting Speaker, I sincerely hope that the Select Committee will deliberate on it in a bipartisan manner and in the end, come up with a solution which will be acceptable to both stakeholders. This will require consultation with the stakeholders. It is not to be seen that this Select Committee alone is deliberating without calling for submissions or representations from the stakeholders and imposing a solution on them. I think it is very important that in whatever we do, we ensure that the stakeholders claim ownership of that arrangement.

Mr. Acting Speaker, I do not wish to take too much time of this House on this issue because our task has just begun with the appointment of this Select Committee. I think that is where most of the negotiations will take place, so I merely articulated some of the developments on this particular issue since 1992 up to now, to put the records right.

Mr. Acting Speaker, I support the motion and I would like to assure this House that as far as we are concerned, we will do our best to try and resolve this issue, for the betterment of this nation and all its people.

HON. RATU N.T. LALABALAVU.- Mr. Acting Speaker, Sir, I rise in support of the motion before the House.

Sir, as already outlined by the honourable Prime Minister, the important objectives of the proposed ALTA and Native Land Trust Act (NLTA) amendments are (in relation to native land):

- (a) to consolidate the regulation and administration of agricultural leases on native land under the NLTA;
- (b) to bring about a fair and equitable distribution of

income between the users of native land and the owners who are native Fijians; and

- (c) to provide for the continuity of the security of tenure in the same manner or better than which we already have under ALTA.

The proposed amendment, Sir, like any amendment that guarantees the continuity of the sugar industry and the lives of over 300,000 people who depend on it, is certainly good for Fiji. The critical point to me on the proposed amendments is that it is a measure that will restore the trust and support of the Fijian landowners to this important industry, which continues to depreciate by the day.

In supporting the proposed amendments, I am mindful of the history of ALTA. This law, Mr. Acting Speaker, Sir, sustains the sugar industry, which is the backbone to the development of our nation. It has contributed to the progress of our tenant farmers, who have made millions from native land. They have supported their own progress and the education of their children. The other side of the picture is not a happy one. Fijians, as contributors of land, continue to subsidise the sugar industry and the lives of the tenant farmers. As users of native land, FSC and the tenant farmer reap hundreds and hundreds of millions annually, while the poor landowners earn less than \$20 million in revenue.

Mr. Acting Speaker, Sir, it comes as no surprise that the Fijian landowners have no more faith in ALTA. Government has to respect the choice of native owners. I am thankful that the Government has proposed these amendments. On the same token, I am also thankful to the Fiji Labour Party for their support on the motion. Sir, it is important that we approve these amendments, to restore the support and the trust of the Fijian people. I remind this august House that the Fijian people, through the Native Land Trust Board (NLTB), the Ministry of Fijian Affairs and the Great

Council of Chiefs (GCC), had put the Government on notice some 14 years ago that they do not want their land under ALTA. Again in 1999, the 14 provinces had resolved that they do not want their land under ALTA. In the same year, the GCC and the NLTB, having considered the views of the 14 provinces, had expressively informed the Government of Fiji, in a joint statement, that the Government must understand that the Fijian people do not want their land under ALTA and that the Government must look into that with a maturity of purpose.

Mr. Acting Speaker, Sir, I hold the firm and sincere view that we should not deny them their wish. The Government does not own native land, and neither does the Labour Party. Even the tenants do not own native land. In our very Constitution, under the Bill of Rights' provision, we uphold the proprietary right of every owner of property in this country to decide how best to use his or her own land. Here, the native landowners of this country have been telling us time and time again that they do not want their land under ALTA and who are we to say no to them? The sad fact is that we have taken advantage of the goodwill and loyalty of the Fijian landowners to regulate the use of their land. We have done this under ALTA and we have done this to the extent that they hold no more power of the choice on how they use their land. Somehow, our parliamentary votes are much more significant than their choice.

Sir, it is wrong and I fear the day when a Fijian landowner will stand up and point a finger at Government and say that they are denying them their human rights to property. What we must do is give them their choice and, in the same spirit, ask them to agree to provisions we feel are necessary to guarantee the sugar industry and the lives of the 300,000 people who depend on it. That, Sir, is how the proposed amendments have come to be. The 14 provinces, the NLTB and the GCC have all agreed to these amendments. The sugar industry and the tenants have been consulted.

Mr. Acting Speaker, Sir, the Government has put back to the Fijian people the choice on the use of their land. At the same time, it has asked them to consider their responsibility to our public interest in the sugar industry and the lives of the people who depend on it. The Fijian people have agreed to this amendment. The only request by the Fijian landowners is that in passing these amendments, the Government must restore administration of their land under NLTA.

Secondly, it must remove parts of ALTA that flatter their proprietary rights and those that are unfair to them. The good thing about these proposed amendments is that it has addressed both concerns, firstly the landowners' concerns.

The landowners are concerned that they were not fully consulted on the implication of ALTA at its beginning. They say that ALTA has imposed on them the burden of subsidy in the sugar industry, the livelihood of the tenants and the development of our nation. All that the landowners want is an equitable share in the industry. In short, Sir, the landowners are asking that their land be treated as an investment and not a subsidy. They expect an equitable return on their investment and they ask that their right be administered under the laws, that they have agreed to look after their land and that is NLTA.

Mr. Acting Speaker, Sir, I have worked for many years administering native land under ALTA and I can understand the predicament of the landowners. ALTA came about because of the recommendation of the *Burns Commission* of 1962. The late Ratu Sir Kamisese Mara had commented that ALTA was "rushed in by Fiji's Colonial Masters on the eve of their departure as a solution to sustain Fiji's Sugar Industry." There was indeed little consultation or more probably the goodwill of the native owners was taken for granted as their contribution.

By 1966, the Colonial Government had passed ALTO. There was no consultation with the Fijian people, Mr. Acting

Speaker, Sir, and no views were sought from the 14 provinces. The Great Council of Chiefs was not consulted. The result was ALTA or ALTO. It is a legislation that totally ignores the rights and interests of the Fijian people.

Even worse, it imposed on them the burden of subsidising the sugar industry and this without even consulting them. This is why the landowners are complaining and rightly so, because no one should impose its will on the rights of any individual to his property. Property right is a fundamental human right but ALTA has taken that away.

The first disrespectful thing that ALTA did was to take away from the Native Land Trust Act the regulation of the affairs of the landlord and the tenant on agricultural land. It places this under ALTA. We all know how the late Ratu Sir Lala Sukuna and the Fijian chiefs had worked together to agree to put native land under the NLTB.

As I have said earlier, Mr. Acting Speaker, Sir, the decision to put agricultural land under ALTA was morally wrong. It was not in the interest of the Fijian owners.

At this juncture, Mr. Acting Speaker, Sir, I ask whose decision was it that ALTA should be entrenched in our Constitution along with the other Acts that protect Fijian interest? It goes against Fijian interest and it should never have been an entrenched legislation. What you have here is an anomaly.

The second disrespectful thing that ALTA did is to impose a rental subsidy at six per cent of the Unimproved Capital Value.

The rental subsidy continues to this day, Mr. Acting Speaker, Sir, in real terms, it means that for every \$100 earned on sugar, \$2 goes to the landowners, \$78 goes to the tenant and \$20 goes to the FSC. This \$2 for the landowners is shared amongst the members of the *mataqali*. The average *mataqalis* numbers no

less than 30 members. Rent is not tagged on the consumer price index and its value decreases every year.

The sad result of the six per cent Unimproved Capital Value subsidy was demonstrated in a case at Nadi some years ago. There, a tenant had applied for compensation at the end of his lease. The Agricultural Tribunal awarded him \$18,000. On a review of his rent over the 30-year period, it was found that in total, he paid \$18,800. He had therefore, recouped all the rent that he paid. What is more, his income from the industry from FSC over the 30-year period was approximately \$120,000.

Mr. Acting Speaker, Sir, here is a glaring example of how ALTA has discriminated against the native landowners.

I know there are people in this House who will say that it is fair enough because native Fijians are a lazy lot. They prefer to do other things instead of farming their land or if the land is returned to them, they will all lie in waste.

Mr. Acting Speaker, Sir, I say that those who propagate these views are the exploiters of the Fijian people and their loyalty and trust. They are backed by powerful and internationally funded organisations. They are the real enemies of reconciliation. They are far removed from the grassroots.

Every property owner has the right to treat his property as an investment. No matter what, Sir, ALTA is therefore wrong and unjust in taking away that opportunity for the landowners.

It is also wrong to assume that Fijians are lazy. You need only to go to NLTB to see for yourself the number of Fijian cane farmers. The sad fact is that, there are people who are trying their best to deny them that opportunity. These people have a solid and strong network.

I am happy, Mr. Acting Speaker, Sir, that the Government

has taken all these into consideration and is proposing under these amendments that the UCV is to be increased but not too much in order that the tenant is also assisted. That the base UCV is to be reviewed and gazetted every five years.

On the landowners' request that agricultural tenants are to be administered under the Native Land Trust Act, Sir, I hold the firm and sincere view that we should not deny them their wish.

The landowners are very protective of the Native Land Trust Board. It is the body that they have appointed to administer their land. They were properly and fully consulted on it and they had uniformly agreed to put their trust on the NLTB. They were surprised to know that ALTA can override the authority of the Native Land Trust Board and here too, Sir, the proposed amendments that are before this august House will grant to the landowners their wish to have their agricultural tenants administered under the Native Land Trust Act. They have agreed, however, that the total and full security of tenure guaranteed under ALTA are to be improved.

What is good about the proposed amendment is that, it balances the concern of the landowners and the tenants with the overall heed to sustain the sugar industry. It is an all inclusive approach that balances the concern of the landowners to the tenants' interest.

Mr. Acting Speaker, Sir, the concerns of the tenants is common knowledge to us all. They need security and the opportunity for renewal of their investments on native land.

I am happy that the proposed amendment has covered these concerns successfully. Even though NLTA is proposed to replace ALTA, all elements, including the provisions to apply for Declaration of Tenancies are maintained. Rent will be tagged at an affordable rate that assists the tenant, whilst providing for an appropriate return on investment for the landowners and the

minimum term of the lease is to be increased to 50.

In conclusion, Mr. Acting Speaker, Sir, I sincerely feel that the amendments proposed here are the best we can hope for. It is fair and equitable. It is all inclusive. It seeks and will restore the trust and support of the landowners to the sugar industry. It will encourage landowners to lease their land because it treats their land as an investment and guarantees for them a fair and equitable return on their investment. Mr. Acting Speaker, Sir, I beg all Members of this august House to support the motion.

HON. L. QARASE.- Mr. Acting Speaker, Sir, I will be very brief. I would like to take this opportunity to thank all honourable Members who have spoken on the motion. I think it is quite clear from the two contributions that there are wide differences that we need to resolve in the select committee. I think this House has made a good move that we have now taken the issue to the Joint Parliamentary Select Committee.

There will be plenty of opportunities, of course, to debate this issue. The issue on land, as we know, has always been a very difficult and complex one. It becomes very emotional and unfortunately, at times, quite racial as well. But these are the problems that we confront in this House and it is our role to try and discuss and consult, and come out with the best outcomes that we can produce.

As I have mentioned, there will be plenty of opportunities to debate the issue further when the report of the select committee is submitted to the House later in the year and, of course, if there are amendments to the legislation, that again will be an opportunity for all of us to express our views on the very complex issues.

I must thank both sides of the House for having progressed to this point. No other previous Governments have basically, progressed to this point. I hope that from now on, we can progress

discussions on the issue further so that we can deal with this problem in the best interest of the stakeholders and in the best interest of our country.

With those few words, Mr. Acting Speaker, Sir, I commend the motion to the House.

Question put.

Motion agreed to.