THE

PARLIAMENTARY DEBATES

OFFICIAL REPORT

IN THE THIRD SESSION OF THE FOURTH PARLIAMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO WHICH OPENED ON JANUARY 13, 1992.

SESSION 1993—1994 **VOLUME 41**

SENATE

Tuesday, May 03, 1994

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave to Sen. Michael Mansoor and Sen. John Rooks to be absent from today's sitting of the Senate.

LATE ARRIVAL

Mr. President: Sen. Junior Barrack has indicated that he will be a little late for today's sitting.

PRIVILEGES AND IMMUNITIES (AMDT.) BILL

Bill to amend the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01 to enable an Order made under section 9 of the Act to confer juridical personality upon an organisation receiving benefits under the Order; brought from the House of Representatives. [*The Minister of Foreign Affairs*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate. [*Sen. Dr. The Hon. L. Saith*]

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General on the accounts of Point Lisas Terminals Limited for the year ended December 31, 1993. [*The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith)*]

2. Report of the Auditor General on the accounts of Point Lisas Industrial Port Development Corporation Limited for the year ended December 31, 1993. [*Sen. Dr. The Hon. L Saith*]

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. Muntaz Hosein:

Aranguez Farm Lands
(Policy)

50. (a) Can the hon. Minister of Agriculture, Land and Marine Resources state the Government's policy on the Aranguez farm lands?

(b) Can the Minister indicate whether these lands are to be used solely for the purpose of farming?

Smoking Ban

51. In the light of the PrivateMember's Motion on the banning of smoking in public places which was agreed to with amendments in the Senate on April 27, 1993, can the Minister of Health indicate what steps the Government has taken and/or intends to take on the operationalization of the Motion?

Alcohol and Tobacco Ads
(Regulation of)

52. With respect to the Private Member's Motion on the regulation of advertisements of alcohol and tobacco products on television which was debated and agreed to in the Senate on May 25, 1993, can the Minister of Health indicate:

(a) Whether any steps have been taken in an attempt to implement the recommendations of the Motion?

(b) If there have been no steps taken thus far, can the Minister indicate the reasons, and what measures the Government envisages it will take to address this matter?

Sen. Dr. The Hon. L. Saith: Mr. President, I regret that the answers to questions Nos. 50, 51 and 52 are not yet ready. I seek the leave of the Senate to have them deferred for two weeks.

Questions, by leave, deferred.

ORDER OF BUSINESS

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I seek leave to deal with "Bills Second Reading: Private Business" at this stage.

Sen. W. Mark: Mr. President, I was not conscious of this arrangement. We came here prepared to deal with the Land Acquisition Bill.

Mr. President: This is a Private Bill which went through a committee in the other place. It was given first reading last week. Private Bills are normally non-controversial.

Leave granted.

ISLAMIC CHILDREN'S HOME (INC'N) BILL

Sen. Rev. Daniel Teelucksingh: Mr. President, I beg to move,

That a Bill for the incorporation of the Islamic Home for Children and for matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 9 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment; read the third time and passed.

LAND ACQUISITION BILL

Order for second reading read.

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Mr. President, I beg to move,

That the Land Acquisition Bill, be now read a second time.

Sir, the procedure for the compulsory acquisition by the state of land required for public purposes is at present governed by the Land Acquisition Act, Chap. 58:01, an Act which was passed in 1947.

Over the years, the procedure laid down by this Act has been found to impose hardships on citizens whose lands have been compulsorily acquired, primarily because it does not confer upon the right to make representation against the intended acquisition. At the same time it permits the state to take possession of the land, and there are undue delays then in carrying out the acquisition procedure and, more specifically, the payment of compensation for the land that is being acquired.

1.40 p.m.

The Bill before us today seeks to reform the existing Act by laying down a strict timetable for each step of the acquisition procedure, as well as generally

balancing the rights of the citizen, as against the rights of the state. This Bill was first drafted in 1982, and published for public comment on July 12, 1991, with a deadline of September 12, 1991 for the submission of comments. This deadline was extended at the request of two professional bodies to October 11, 1991.

Comments on the Bill were received from five groups and individuals: The Land Surveyors Association of Trinidad and Tobago, The Association of Professional Valuation and Land Economy Surveyors of Trinidad and Tobago; Mr. Eugene Raymond; Mr. Kenneth Subran and Mr. Robert Beard of the Valuation Division; and Ms. Carla Herbert, Advisor on Legal Drafting from the Law Commission On receipt of the comments, a team of technical officers was set up to consider them. They held 16 meetings during the period November, 1991 to April 1992, and submitted a report to the Minister of Planning and Development on May 8, 1992. The Minister met with the team on June 26, 1992 to discuss the report, and having done so, requested the team to review five of the matters which were in that report.

The team subsequently met a further seven times during the period July 7 to September 1992 and submitted their report to the Minister of Planning and Development on November 5, 1992. This report was accepted by Cabinet in December, 1992, and at that point it was referred for the drafting of the Bill that is before us today.

If I may go through the process that now exists for land acquisition, and indicate what will continue to take place up to the time this Bill is passed. The way land is acquired in this country at the moment is as follows:

Where land is required for a public purpose, the President signifies his intention to acquire that land by publishing in the *Gazette* a notice of intended acquisition under section 3 of the Act. This notice enables the Commissioner of State Lands to enter onto the land—subject to certain provisions which deal with the entry into occupied buildings—to do a number of things: to take soil samples, survey the land, define its boundaries, and, generally, do whatever is necessary to ascertain that the land is suitable for the purpose for which it is being acquired.

After the notice is published in the *Gazette*, the President may then, in accordance with section 4 of the Act, authorize the Commissioner of State Lands to take possession of the land and to commence work on it without waiting for the land to be formally vested in the state. This is important. Simply by publishing the

section 4 notice, the Commissioner of State Lands can, in fact, take possession of the land and do what is intended to be done with it; construct a building, build a road; all this could take place without the land having been formally vested. This enables the state to move expeditiously into its work, but it does remove from the landowner, in effect, ownership of the land.

After the section 4 notice is published, a survey plan is prepared and parliamentary approval for the acquisition of the land is obtained under section 5 of the Act, which is what comes to Parliament at various intervals. Until section 5 of the Act is approved by the Parliament, the land has not been formally taken from the landowner. Once the section 5 notice is published, that is, Parliament has approved the acquisition, persons who have an interest in the land are then notified in accordance with section 6 of the Act, and they are required to make their claims for compensation. So that until this section 5 is dealt with in the Parliament—although the land is in fact taken from the owners—the owner cannot make a claim for compensation.

Similarly, such a person may, under section 8, be required by the Commissioner of State Lands to deliver to him a statement in writing—concerning so far as may be within that person's own knowledge—the names of every person possessing any interest in the land or part thereof. These, Mr. President, are the bare bones of the present acquisition procedure.

The existing Act also prescribes for persons who are entitled to be paid compensation, as well as the rule by which compensation is to be assessed. There are also provisions in the Act governing the acquisition of land by highway authorities, municipalities, statutory corporations, promoters, as well as provision for acquisition of land under special powers and emergencies.

Permit me to touch at this stage on some of the perceived deficiencies in the existing procedure as well as the way the Land Acquisition Bill of 1994 seeks to address those deficiencies. Let me start with the section 3 notice. Two deficiencies were identified in the present arrangement. One is that one only needs to publish the notice of intended acquisition in the *Gazette;* this is considered too restrictive, and we need to have a wider forum by which the notice is published. Secondly, there is no provision in the procedure once a notice is published, to allow the land-owner the opportunity to make representations regarding the intended acquisition.

We have sought in this Bill to deal with those perceived deficiencies by providing in clause (3)(1), that the section 3 notice must now be published, not only in the *Gazette*, but twice in at least one daily newspaper circulating in Trinidad and Tobago. In addition, after seven days of the date of publication, the Commissioner of State Lands must serve the notice personally or by registered post on every person who he knows or believes has an interest in the land to be acquired and whose whereabouts are known to him. If he does not know the whereabouts of such a person, the Commissioner must affix a copy of the notice on a conspicuous part of the land.

1.50 p.m.

So the procedure now ensures that the person whose land is to be acquired is aware of this, and the Commissioner of State Lands can enter upon the land to be acquired only after seven working days has elapsed from the date of publication of the notice in the *Gazette,* and he can only go in for investigative purposes, that is, to take soil tests, to define boundaries, to take levels and so forth. So the new Bill ensures that the person whose land is to be acquired is made aware of it.

The Bill also, by clause 3 (4), will allow the landowner a period of six weeks to make representation to the President regarding the intended acquisition. He has six weeks in which to make representation to the President and say, he does not believe that my land should be acquired for whatever reasons.

We believe that these innovations enhance the position of the landowner whose land is designated for acquisition. He now has the notice, the system provides for him to be aware and he has six weeks in which to make representations.

Let me take clause 4 by which the Commissioner of State Lands can take possession of the land and begin to carry out the works. What normally happens is that once the section 3 notice is published, the section 4 notice is published shortly afterwards, and the effect is that the landowner is deprived of his land with very little warning. Furthermore, this section does not provide for the publication of the section 4 notice; it is not mandatory to publish the section 4 notice.

More importantly, by virtue of this provision the landowner suffers the loss of his property just as if it had been formally vested in the state, thereby enabling the state to start, and often complete, the project for which the land is being acquired before the land is formally vested in the state, and the landowner is not entitled to claim compensation until the formal vesting of the land takes place. So it is quite

possible under section 4, to acquire the land, use it for the purpose for which it has been acquired, in effect take it from the landowner, and the landowner is not entitled to claim compensation until the formal vesting takes place, which is when the section 5 notice is published. And as hon. Senators know from our experience here, sometimes it is three, four, five, six, seven or eight years after the project is completed.

This clearly imposes a hardship on the landowner, who, although he is being deprived of his land, must wait for the land to be vested in the state before he claims compensation. We sought to deal with that in this Bill in the following manner by clause 4:

(1) Two months must elapse from the date of publication of a notice of intended acquisition, that is, section 3, before possession can be taken under section 4. That is to allow the six-week period for the person to respond to the notice for acquisition.

(2) The President, in authorizing the Commissioner of State Lands to take possession of the land, must issue an Order to the effect, which must be published and served in the same manner as the section 3 notice. In other words, the Commissioner of State Lands has to go through the same procedure as he did for a section 3 or section 4 notice, that is, make sure it is published in the *Gazette* and in a newspaper, and that he gets it to the owner by hand, or if the owner cannot be found, affix it on the land.

(3) From the date on which the Commissioner of State Lands takes possession of the land designated for acquisition, that is from the day he moves in and begins to do work, the landowner becomes entitled to compensation on the same basis as if the declaration had been made under section 5 on that day. That is to say, from the moment the Commissioner of State Lands takes possession under section 4, the owner is entitled to compensation; he does not have to wait until a section 5 notice is in place.

(4) Interest, in terms of calculated interest which is due to him on his compensation, now starts from the day the Commissioner of State Lands takes possession of the land under section 4. In the Bill, an interest rate of nine per cent is suggested, which is three per cent more than now exists. And more than that, the Bill allows the Minister of Finance, by Order, to vary that rate from time to time depending on the rate of interest in the country generally at the time.

(5) From the date that the Commissioner of State Lands takes possession of land, under this new Bill the landowner is entitled to receive upon request and upon satisfactory proof of title, an advance payment not exceeding 80 per cent of the amount equal to the compensation estimated to be payable under the Bill, by the Commissioner of State Lands. So not only does he get interest from the date on which they move onto his lands, but as of that date he is entitled to up to 80 per cent of the value of the compensation that he would receive.

(6) Finally, if the Commissioner of State Lands fails to take possession of lands designated for acquisition within six months of the publication of an Order, the Order lapses, and the land automatically goes back to the landowner.

We feel, Sir, that these new provisions allow for a more equitable arrangement in respect of the landowner and his claim for compensation for land which has been taken from him.

Section 5 of the existing Act includes a provision which empowers the President to declare land to have been acquired for public purposes whether or not a notice in the *Gazette* in relation to that land has been published under section 3; and if a notice has been so published, whether all or any of the powers conferred by that section have been exercised or not. In other words, the present Act allows the President, whether or not a section 3 notice has been published, to proceed to acquire.

In view of the fact that we are now saying that not only must a section 3 notice be published, but that the owner must be informed and that he must have six weeks in which to respond, we have put into the Bill clause 5(4), which provides that land may be acquired without the publication of a section 3 notice only in a special case, that is, if the President is of the view that the acquisition under this subsection is necessary to expedite the acquisition process in the national interest. In other words, except for that arrangement, a section 3 notice must be published, the person must be informed and she/he must have the right to respond to that notice.

2.00 p.m.

In respect of an advance payment on account of compensation payable under the Act, the present Act does not provide for making such advance payments. However, in 1977 the Cabinet decided that the Commissioner of State Lands, once an acquisition has been completed, could make a discretionary advance

payment upon request and subject to satisfactory proof of title pending conclusion of the negotiations. Such advance payment must not exceed 80 per cent of the Commissioner's estimate. It could only be done after the acquisition process has been completed.

This Bill provides that an advance payment not exceeding 80 per cent of the Commissioner's estimate shall be made upon request and subject to satisfactory proof of title where possession of the land has been taken without it being formally vested in the state—once you move in—or where the lands have been vested in the state and the negotiations are ongoing. What was "may be" has now been transformed into "shall be."

I indicated that under the existing Act compensation bears interest at the rate of six per cent per year. This Bill provides that compensation payable in respect of land under the proposed Act shall include interest at the rate of nine per cent per annum or any such other rate as the Minister of Finance may from time to time determine by Order.

We also in this Bill sought to widen the definition of persons who have an interest in land to include tenants under certain conditions of tenancy. So it is not only the owner; if there is a tenant, under certain conditions he or she also has some rights.

We have looked also at the rules for assessment of compensation. How do you assess compensation? The rules for assessment remain largely unchanged except that we have made it more explicit how such compensation should be addressed. Clause 12 (3) (b) states explicitly that if a property is compulsorily acquired, if improvement is made to that property without the requisite planning permission under the Town and Country Planning Act, there would be no compensation for such improvement. In other words, if there is improvement made to the land, which was not approved, then that would not be taken into account in calculating compensation.

It is important that any assessment for compensation of land compulsorily acquired must be just, fair and reasonable. Clause 12(1) (a) of the Bill provides that when compensation of the land is being determined:

"(a) the value of land shall, subject as hereinafter provided, be taken to be the amount which the land, if sold in the open market by a willing seller, in the condition in which it was, might be expected to realize at the date of

> the taking of possession of the land under section 4 (1) or the date of publication in the *Gazette* of the declaration made under section 5 (3), whichever is the earlier;"

Under this provision, what we sought to do was to link just compensation to the open market value of the land. We are saying that in arriving at compensation, the question of the open market value of the land must be taken into account. Not only must the compensation be just, fair and reasonable, but it must also be adequate. Therefore, there are provisions in the Bill which deal with compensation for actual damage or injury resulting from entry by the Commissioner of State Lands on the land in respect of which notice of intended acquisition has been published—clause (3)—as well as reimbursement for any reasonable cost incurred by the claimants in the preparation of its claim. In addition to the value of the property, any reasonable cost incurred in preparing that claim or any damage done by the entry of the Commissioner of State Lands, will be compensated for. It must also not be a source of financial gain or, the converse, financial loss.

Therefore, two new rules are put in the Bill to deal with this matter. The first rule is one which provides a mechanism by which the claimant can have certified by the Minister responsible for Planning for the purpose of assessment of compensation, the use which might have been permitted by the Minister in respect of the land acquired had an application been made to the Minister under the Town and Country Planning Act prior to the acquisition. Such a certificate should be one of the factors which must be taken into account in determining the open market value of the land.

2.10 p.m.

This provision is particularly beneficial where a person may have had the land and had not taken any steps to deal with it; it had just been lying there. If it is acquired, in order to determine the true value of the land, the person can come to the Minister of Planning and Development and say, "If I wanted to develop this land, what would I have got permission to develop it for? Suppose it is just lying there as agricultural land, and the Minister then said, "I would have approved this for commercial purposes," then in assessing the value of compensation, the value based on what the land could have been used for as distinct from what it is being used for now must be taken into account. In this way the owner of the land gets the highest and best value for the land which is being acquired.

The other rule is similar to a section of the Highways Act, and it is found in clause 4 of this Bill. It says that if you take a piece of land and the same owner owns the land which is adjacent to the acquired land, you would add to or deduct, as the case may be, from the amount of compensation any amount if there is an increase or diminution of the value of the land as a result of the acquisition. For instance, if you take a piece of land and leave a small bit, and therefore the small bit that was left, in fact, suffers diminution of value, then that should be added to the compensation that you are paying for the land you are taking. If, on the other hand, by taking the land it adds to the value of the land that you own next to it, then that should be subtracted from the compensation. In other words, you are compensated for what happens to your land if you own the land next to the portion being acquired.

As in the existing Act, this Bill provides for acquisition in special cases, that is, by highway authorities, municipal and statutory corporations as promoters; provision is made for acquisition under special powers on emergencies; clauses 10 and 19 of the Bill are relevant.

The Bill also contains transitional provisions where acquisition proceedings initiated under the existing Act are not complete, and the new Act is proclaimed. What the transitional provisions seek to do is ensure that the entitlements under the existing Act are preserved at the same time as you bring incomplete transactions under the provisions of this Bill.

So the Bill provides for basically three cases: The first case is where the section 3 notice has been published and no further action has been taken since that time; in such cases the section 3 notice will be treated as a section 3 notice under the new Act and all the conditions of the new Act will apply. The second case would be where a section 4 notice has been published and the Commissioner has taken possession of the land, but we have not reached section 5 yet. That says that the interest the rate of the new Bill will apply from the date of its coming into operation, and the requirements as to the time and publication of the section 4 notice would have been satisfied. By virtue of this, the landowner will now enjoy enhanced entitlement provided for in the Bill.

The last case is where the land has been acquired, section 4 notice has been published; section 5 notice has been published but the transaction is still not yet complete.

We are seeking here to determine the compensation as if section 11 of the

existing Act had not been repealed, and that the landowner will get his compensation at 6 per cent up to the time of the new Act and 9 per cent thereafter, so he does not lose the 6 per cent and, therefore, you have not changed the rules in midstream. You continue calculating under the existing Act, up to the time of the coming into effect of the new Act, and any further calculations will be on the basis of the new Act.

Mr. President, at the committee stage I shall move some minor amendments to clauses 20 and 40, which seek to clean up some of the language, but not change the basic policy and concept of the Bill.

In conclusion, let me say that the Government has sought to look at the perceived deficiencies in the existing arrangements; to balance the rights of the landowner vis-a-vis the rights of the state; to make the acquisition procedure more efficient and more equitable and to ensure that neither the state nor the landowner is deprived of equity and justice in the arrangements.

Mr. President, I beg to move.

Question proposed.

Sen. Surendranath Capildeo: Mr. President, may I congratulate Sen. Dr. The Hon. Lenny Saith for using the gift from the Tobago House of Assembly [*Interruption*] No, I do not need it. It shows the unity of the state, Sir.

Mr. President, there was a time when I could have proudly said that we are living en *terram quae fluit lacte et melle,* in a land flowing with milk and honey. Now, Sir, unfortunately, we are living at a time when our land is flowing with blood and hate.

The history of land acquisition in this country is a history of cruelty, of perceived corruption, and insensitivity of the relationship between the Government of Trinidad and Tobago and its citizens. Sir, in historical perspective, land acquisition may be regarded as the mother of all frauds ever perpetrated in this country. There is a perception that the power to acquire land has been used by governments, unashamedly, as a highway of corruption.

In fact, Sir, I am so incensed at the insensitivity of the Government with respect to bona fide acquisitions from poor, defenceless persons, as compared to acquisitions from friends and party supporters that I want, now, to call for a public inquiry into all land acquisitions by the Government of Trinidad and Tobago from 1956 to date.

2.20 p.m.

We have had instances where acquisitions have taken place in indecent haste, compared to the snail's pace of other acquisitions. And the public must know why. In fact, Sir, there is an existing case where, in 1977, the state moved onto the property of people, and it was only in 1991 that the formalities were completed, in 1992 compensation was agreed upon, and in 1994—we have no money. Six or seven people have died and the rest will die, probably without getting a cent in compensation. I call for a public inquiry.

Some of the acquisitions are so glaring and so brass-faced, that one could only hang one's head in shame when one drives past or walks into the buildings. Land acquisition is without doubt the source of some of the biggest internal acts of corruption that this Government and this country have ever seen. I repeat it, we need a public inquiry.

It would be interesting if former Commissioners of Valuation and high officers in the Valuation Division could be fitted into a witness protection programme, so that they could give evidence, honestly and without fear. It would be interesting to hear what they would have to say about land acquisitions that have taken place in the past—very interesting to hear—especially during pre-election periods and in the boom years. It would be very interesting to hear their points of view.

When one compares that to the scenario where there are helpless individuals whose lands have been acquired, who have no "contact, are unable to influence" in cash or kind, any official, who will not bribe and who will have to depend on the normal lawful processes for compensation—those people are languishing, waiting years and years for compensation, sometimes dying receiving it.

In one particular case in which I was involved, it took the threat of a bulldozer—for the brand new hotel prison that is being built—before compensation was finally paid after 12 years.

Sen. Merritt: Russell's prison?

Sen. S. Capildeo: Russell's prison.

Sen. Huggins: Wade Mark's prison!

Sen. Merritt: You are going there before Wade Mark, you know.

Sen. S. Capildeo: Mr. President, I listened with interest to Sen. Dr. The Hon. Lenny Saith, Minister of Planning and Development, sometimes acting Prime Minister, speaking with such gentility and in such a convincing manner about all the clauses in this Act.

Sen. Huggins: Bill! Bill!

Sen. S. Capildeo: Bill—all the clauses in this Bill, and saying that they have improved on the payment of money to people. But for years now no money has been paid. Payments are not being made, and the reason for that exposes the basic flaw in this kind of legislation.

I have repeatedly said, Sir, that one cannot look at bits and pieces of legislation—for example, the Land Acquisition Bill 1994—in isolation. One has to look at the whole package of legislation, and that is why I am completely bemused by the Government's legislative programme. It is cockeyed! Because it is one thing to come forward with the Land Acquisition Bill, when one of the basic planks in a claim for compensation is title to land.

Sir, what is known as the Search Room, is an Augean stable which we will not be able to clean this side of the century, or possibly way into the next century. We are approaching the year 2001, the 21st century. I, or anybody else, should be able to go to the Registry, pay a nominal fee and get a computerized print out of the title to any plot of land in Trinidad and Tobago.

Do you know what the situation today is, Sir? That is pie-in-the-sky dreaming. The cost of the search now in many cases exceeds the cost of the conveyance. The Search Room is a disaster area. So that the Government passes this Land Acquisition Bill, but it does not assist the citizen in having his or her title protected so that he or she could go to the state and say, "Here is my title. Pay me my money." That is one of the fundamental flaws in this Bill.

In such a scenario, it is the small man who suffers. It is the small man who will not get compensation in time. It is the small man who is penalized because of the system of registration and the system of searches and the system of conveyancing in this land. Once upon a time there was the dream of bringing all land in this country under the Real Property Ordinance, so that the question of title would be solved once and for all. That was a colonial dream and it died. We are now independent and we are reaping the bountiful harvest of independence.

The system of searches has brought the Conveyancing Department in this country almost to a standstill. I defy any conveyancer in this land to guarantee any client perfect title. I defy him! Every time a conveyancer signs a deed, he puts his reputation on the line, because he is never sure. That is the state of that Registry.

PNM legislation has always had a basic defect. It is based on a policy of flawed pragmatism. The entire philosophy of PNM legislation has been one of expediency. The old 1947 Act and this Bill are both lopsided. They are based and predicated upon the proposition that the state is entitled, almost at will, to acquire lands "for public purposes." Now, the question must pose itself: What is public purpose?

An American text which deals with both American and English jurisprudence, *Black's Law Dictionary*, has a definition of "public purpose" which is as tortured as it is convoluted. It is:

> "A public purpose or public business has for its objective the promotion of public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."

As I read this, Sir, and the words "morals, general welfare, security, prosperity and contentment" of inhabitants jump out at me, I again call for a public inquiry with respect to land acquisition in this country.

Let us know whose properties were acquired, how much was paid, the dates on which they were acquired; and let us compare them with the existing properties to be acquired, who are the poor people waiting in line, and what were the dates when their properties were acquired. And let us, above all, find out how much money was paid and how much money is yet to be paid. It runs into millions and millions of dollars. We want to find out why some are more equal than others.

2.30 p.m.

Digressing, Sir, I want to come back to the vision of the legislation which merely deals with the almighty state acquiring the right to acquire land for public purposes. That is the whole purpose of the legislation. But what if I were to object? Suppose I were to tell the state, "I do not want you to acquire my land," what happens to me? Clause 30 (1) gives you the answer. It is a draconian answer. It states:

> "If any person refuses to give up possession of any land, or hinders the Commissioner or a person authorized by the Commissioner in taking possession of any land, which has been acquired under this Act or on which

> the Commissioner or such person is authorized by virtue of this Act to do any work or thing, the Minister may issue his warrant to the Marshal authorizing him to enter upon the land and to put the person so refusing or hindering, out of possession of the land and to deliver possession thereof to the Commissioner or to such authorized person."

And it goes on to talk about compensation under those conditions.

Let us compare, let us look at *Halsbury's Laws of England*, Fourth Edition, Volume 8:

> "Form of objection to compulsory purchase order.
>
> Objections to a compulsory purchase order made to the confirming authority must be in writing. The grounds of objection should be stated, for the confirming authority may require an objector to state the grounds in writing and may disregard the objection if it is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by which the compensation is to be assessed."

It goes on:

> "Where any objection is made by an owner, lessee or occupier, and is not withdrawn or not disregarded, the confirming authority must before confirming the compulsory purchase order either (1) cause a public local inquiry to be held or (2) afford to the objector an opportunity of appearing before and being heard by a person appointed by it for the purpose."

The point being, what is the position of a citizen of this country who has the gall, the temerity and the courage to tell the state, "I do not want you to acquire my piece of land; I am not satisfied that it is for the public purpose that you express— what is his position?

You see, Sir, one of the problems we face in a debate like this, to give some coherence to the debate, is the time element, because to develop that point alone it would take time. That is why I say we need a joint parliamentary committee to go into Bills like these, to go into all the nitty-gritty, and all the details and all the policies, and then we come back and we make life easy here. But, no. You come with this Bill and we have 45 minutes to one hour to put forward our points of view. It is very difficult to do it within that period.

Just using one example: Would "public purpose" extend to acquiring land upon which squatters exist? When you look at the *McIntyre Report* you see that it refers to some 50,000 households of squatters, many of them on private lands, most of them on state lands. Would "public purpose" include the acquisition of private lands to regularize the position of squatters and thereby give them some kind of title, some kind of security of tenure?

Or would "public purpose" merely be for the state lands and you leave the private landowner to "ketch" with his squatters? Is that not a form of discrimination? But you see, it is going to be difficult again, as I say, to develop that whole theory out, because you have a great measure of squatting taking place on private lands. The courts are clogged with what are known as Order 94 proceedings where landowners are trying to regularize the position by finding out who is bona fide tenant and who is squatter.

Another problem is clause 3(6) which gives the Commissioner of State Lands the right to enter a dwelling house within 24 hours. It states:

> "The Commissioner shall not enter into any building, or into or upon any enclosed yard, court or garden attached to a dwelling-house, except -
>
> (a) with the consent of the occupier thereof; and
>
> (b) after giving to the occupier at least twenty-four hours notice in writing of his intention to do so."

Let us again look at *Halsbury*, and let us see how they deal with that:

> "Entry Before Completion:
>
> Entry with Owner's Consent or after Payment of Compensation.
>
> 143. Necessity for consent or payment."

This is how they deal with it. Here, you can walk in after 24 hours notice. *Halsbury* says:

> "Except with the consent of the owners and occupiers the undertakers or acquiring authority cannot enter upon land subject to compulsory purchase until the compensation payable for the respective interests in the land has been agreed or awarded and has been paid to the persons having those interests or into court."

So you have to agree with the compensation and you have to pay the person, or you have to pay it into the court and then you can move onto the land. The policy position is vastly different. Here you have the juggernauth of the state moving into the acquisition of land with a lot of soft-sounding mellifluous, mellowed phraseology about the payment of compensation when the bottom line is, there is no money.

We all come from the same common law. I want to refer to *Halsbury* again, Sir, at page 7:

> "The right to take land or affect injuriously some or all of the rights of ownership in land, whether by the taking of those rights or their curtailment, was originally a prerogative right enjoyed by the sovereign power in the state, but even in time of war and where land is required only temporarily the executive prefers to act under statutory authority.
>
> In normal times ministers or government departments requiring land are given statutory power to purchase it in manner similar to the powers given to local authorities and other public bodies."

This is where there is a complete and total difference; there is a complete lack of appreciation of the nature of law to man. There is almost a dearth of appreciation. There is no understanding of law in relation to citizen. Laws are not meant to be made in isolation and inflicted on man; laws are made to benefit mankind and must of necessity reflect the culture of the society at the same time. This is where the PNM Government has thrown away a golden opportunity yet again.

I attribute it to ignorance of the reality of the culture of this land. To a vast section of the population of this country, land is sacred. I repeat that; that is a fact: To a vast section of the population of this country, land is sacred. In fact, the concept of owning land is one of sacredness. The land itself is sacred. In Hindi it is referred to as *Dharti Mata.*

2.40 p.m.

There is also another concept *Janma Bhoomi*, the land of my birth. So, there is a kind of sacredness to the land, and when legislation is passed which affects that, you affect the culture of the people; and if your legislation is indifferent to that, then it reflects your indifference to how the society is run. That is why we saw scenes on the television last night of man stoning down man just up the road. There is a complete lack of appreciation of this country and its culture.

The law must reflect the cultural sensibilities of the people and it must not be used as an arbitrary autocratic tool to do, for example, what this piece of legislation wants to do, because, as I said, the bottom line is that the Government does not have the money to do it. This brings me to clause 11 of Part III, Compensation, which bold-facedly, unashamedly and without any kind of doubt whatsoever says:

> "Any dispute as to compensation payable under this Act shall be determined by a Judge in accordance with the provisions of this Part."

How many times in this honourable Senate, in the other place and all over the country, have we heard the cry that the courts are not functioning? How many times are we to be beaten on the head and about the body and be told that the administration of justice is under almost complete strain to the point of total collapse? Yet, the Government is trying to stick into this Bill a three line clause that says all disputes for compensation must go to a judge when that judge is beleaguered in a system which has crashed. Does the Government really want to pay compensation? Or, does it want a man to file his claim and wait 10 years in the court system? That, Sir, is the reality.

Mr. Sobion: What is the alternative.

Sen. S. Capildeo: I really did not expect the Minister to ask that question. He does not want the answer. I am standing here, the Minister is looking at the alternative and he is asking for the alternative.

The alternative is that just as the Government can raise $367 million on a bond, it can raise negotiable, tax-free, interest-bearing land bonds and immediately pay the people their compensation. The reason the Government would not do it is that it does not have the courage of its convictions to trust in the land and the citizens of Trinidad and Tobago. Our land is not going anywhere; the most secure security is the land of Trinidad and Tobago.

If the Government raises guaranteed land bonds, interest-bearing, tax free and negotiable, it would open up a whole market and open up itself to being able to pay compensation to the people who are waiting and languishing for years and years. The Minister asked for a solution; that is part of the solution. Land bonds, think about it.

The reason this Bill, for all that it is worth, will not function is that this Government has no policy on land reform, land distribution and absolutely no policy with respect to how we are going to live on the land in Trinidad and

Tobago. The acquisition of land in this country is a *vaille-que-vaille* thing; it is an *ad hoc* thing and it is covered by the words "public purpose," for which I am yet to find a definition.

There is no use going through this Bill clause by clause to find out whether there are defects in the drafting or whether it will stand up in the courts. The bottom line, and the complaint of the people of this country has always been, "You have acquired my lands; you have moved onto the lands and put me off; where is my compensation? When will I get paid?" That is what the people want to hear. When are they going to be paid for the lands which the state has taken? That is the answer I want to hear. I do not want to have a pretty Bill in front of me; I want to have the cold hard cash in payment for lands which have been acquired by the state for years from families in this country.

Mr. President, let me end with a quotation from Goldsmith: "Ill fares the land…where wealth accumulates and men decay."

Sen. Muntaz Hosein: Mr. President, it is good to see that we have the long awaited Land Acquisition Bill before us today. I, too, was quite taken aback with the calm, cool and collected way in which the hon. Leader of Government Business made his contribution. His heart scarcely skipped a beat when he spoke on the clauses dealing with compensation; I really thought we would have had at least a little different tempo from him at that point.

I know the Minister is fully aware of the problems of landowners whose lands have been taken over by the Government and the number of years that these landowners are waiting for payment. I believe, at one time he told this Senate that his family's land was also taken over by the state *[Interruption]* Acquired, taken over, whichever—and they, too, have not received payment. I do not know if they have received payment by now.

Other than what the Bill calls for, I really thought that we would have had some assurance from the hon. Minister as to how the Government intends to make payments. However, that was not forthcoming.

The Minister pointed out that in clause 3 there is a period of six weeks for anyone whose lands are to be acquired to make representation. I wonder whether six weeks will be sufficient to do this given the state of the law profession these days, and the length of time it takes to get matters processed. I wonder whether the hon. Minister might not have considered a three-month period instead of six weeks.

Having heard Sen. Capildeo and having heard that it may not be even necessary under the circumstances, because if one makes representations, saying that one does not want the state to acquire the land, it seems that one is not really doing anything because the state can go right ahead and continue to do what it wants to do. If that is not correct the Minister can correct me in his winding up, because we need to have that explained.

2.50 p.m.

The Minister pointed out the improvement in the 1994 Bill, that entitlement to money and interest will now be from the date that the Government acquired the land and the state takes possession. Yes, that is an improvement and we are happy for that. We are also pleased that the nine per cent interest rate is more in keeping with what obtains today and which will also be flexible, left to the Minister, to change depending on what the priority rate of interest will be from year to year. But what good would that do us if the money to be paid to these people is not forthcoming? If the Government cannot find the resources to pay this money, what is the point of acquiring people's lands?

Sen. Capildeo made a very valid suggestion to the Government, and, I know that the Leader of Government Business will take it into consideration, and perhaps, the Leader of Government Business in winding up could indicate to us whether he thinks the idea is a good one. To my mind, that seems to be one of the ways in which you can generate the funds necessary to pay people for their land.

It is a scandalous situation with the acquisition of lands. Most of us would have either relatives or friends, or know people whose lands have been acquired by Government and are still awaiting payment that has been outstanding for many years. There seems to me very little in this Bill that gives us comfort that the money will be available and that the time will be considerably shorter.

Hearing Sen. Capildeo tell us about the state of the search area frightens not only me, but also all those who are listening. So that the whole procedure in getting clear title to land is tied up in that area and, therefore, by extension, payment for property will also be tied up.

It would be good if the Minister in his winding up could give us some assurance as to what steps he intends to take to address this problem. Think of yourself owning a piece of land on which you might have a house, or you might be planting tomatoes on it; it is your only source of livelihood; and the Government acquires that land; you are now put out of the land but you have no compensation; how do you live? You have to wait for compensation. It is horrendous to even think about it.

I wish to caution the Government that it should not go about this piece of legislation in a cavalier manner. It should really put all the resources available to it to make certain that the red herrings and road blocks that are in the way of getting clear title to land, and the payment of compensation to landowners are removed so that people could enjoy the benefits of the proceeds of sale of these lands.

If one considers the Town and Country Planning Division, which is part of this whole Land Acquisition Bill—the Minister said that if a piece of land is acquired and is being used for a purpose other than which it ought to have been used, there was a building there erected without the sanction of Town and Country Planning Division. No compensation would be paid for that building.

In essence, I have no quarrel with that. Let us look at the reality of the situation—and we must ask the question: Is the Town and Country Planning Division doing it? Mr. President, I am sure that you are aware of several buildings—and you could take any part of Trinidad and Tobago, from Port of Spain to Icacos to Toco and you will find buildings erected without the approval of the Town and Country Planning Division.

The Division is aware of these things and nothing is being done about it. So such piece of land is acquired and now you say the person cannot be paid for it because it was not used for the purpose. For example, when you pass along the Churchill-Roosevelt Highway, going east as you pass the Aranguez traffic lights you will see a huge steel building which is illegally erected on farm lands. The Minister who is in charge of the Town and Country Planning Division is telling me it is illegal, so he is aware. But what is being done about it? These are the problems that we get and these are the problems we have with the Government of the day.

3.00 p.m.

We have always had this problem. Since 1992 to today, I have been telling them that it is all well and good to bring bills to the Senate, have them passed into law, but then they are thrown into dustbins or left on shelves; nobody implements them. That is the problem we have with the other side, and it is the same problem we are going to have with this Land Acquisition Bill, because I have not seen anything at all from the present Government that will make me believe otherwise. It seems to be going the same way, and that frightens us.

What is the Government doing regarding its land policy? I know that there are Green and White Papers and so forth, but we are yet to see the debate on this

matter. In the meantime, what we have is a situation where a young person today who may wish to go into agriculture, for example, would have great difficulty in finding land for farming. When you can find the land, the cost is prohibitive, so a land policy is necessary to take care of these things.

There is the situation where thousands of squatters are on both state and private lands. The state, I know, is trying to regularize some of these lands. There is evidence of this. I am aware of it, but what of the squatters on private lands? Could this Bill, or whichever Bill the Government wishes to bring, not address those squatters? Certainly, the situation needs to be addressed. We cannot allow this to continue indefinitely.

We have to ask this Government to put into action all those Bills they have brought to this Senate, and have passed, and this one in particular. The part of this Bill that frightens me most is where the Government needs to give only 24 hours' notice to walk into people's homes. That is the part that is frightening. I would like the hon. Minister to consider that 24 hours' notice to enter one's home is not sufficient time: that at least 14 days' notice ought to be given if it wants to enter someone's home for the purpose of acquisition. The Government cannot give 24 hours' notice to enter someone's home. It is totally wrong and I want the Minister to have it changed in the Bill, to at least, 14 days.

Overall, the greatest problem that this Bill has presented to us and to this country is that just compensation in the shortest possible time. We have not heard anything from the other side to assure us that this will take place. If we can be assured of that, we would have no hesitation in congratulating the Minister on bringing this Bill.

I thank you.

Sen. Martin Daly: Mr. President, the Minister of Planning and Development has outlined in a very clear way what the considerable improvements are in this Bill over its predecessor. But the question I should like him to address—and I am disappointed that he did not think it necessary to do so—is: How is he going to make this Bill, if it is passed, work better than its predecessor? That is what I should like to know. What in his strategic plans for his Ministry is the target time for the completion of the acquisition process under this Bill, from the decision to acquire to the time of payment to the citizen? How will that compare with the

average time the person has had to wait in the past from the time of the decision to acquire to the time he receives payment?

There is a very big issue about land acquisition in this country which has very little to do with the provisions of the legislation. I know there are Members of this Government who do not like the word "implementation." I know there are Members of this Government who want to have a new doctrine of the separation of powers, that is to say, passing legislation and implementation. The real issue concerning land acquisition in this country is how it works and how long people have to wait. That is the issue and I should have thought that as one of the intellectuals in this Government and as a businessman, the Minister of Planning and Development would have told us what is his plan to work this new piece of legislation. That is what we want to hear. That is the real issue about land acquisition in this country.

Give us some idea, confess what were some of the delays in the past. I do not mind whether he does it from what I gather is his family’s experience, or from statistics in his ministry, but he should tell us now how this Bill will work better when it is passed than its predecessor Act. Anyone can identify—but the Minister was very helpful in that—the improvements in the Bill. I will tell you one thing—and I agree with Sen. Capildeo—this is a theme to which I shall return in another debate.

Where clause 11 says:

> "Any dispute as to compensation payable under this Act shall be determined by a Judge in accordance with the provisions of this Part."

That is certainly no advance, because, as Sen. Capildeo has indicated, if anyone has to resort to these provisions, his matter will very definitely go into cold storage. He would join the long list of litigants who, metaphorically speaking, begin their litigation with dark hair and halfway through, perhaps when they get to the appeal stage, they have grey hair or no hair. That is the perfect example of why some theoretical improvement in the rights of the citizen do not impress me at all.

Of course, we shall dilate on the delays in the administration of justice very shortly—perhaps next week or the week after. I do not expect that the workings of clause 11 would be part of the Minister of Planning and Development's strategic plan. I suppose that is part of another strategic plan or another report. But I do expect the Minister to tell us, assuming there is no dispute which has to go into the cold storage of the justice system, how he will make this proposed Act work

better than its predecessor. That is really what the country would like to hear because we can all—and the Minister has helped us with it—identify the theoretical improvements on the predecessor Act. I am very sorry to put the implementation burr under the saddle of the Minister, but I really think it is important and that we hear something on this issue.

3.10 p.m.

Sen. Wade Mark: Mr. President, the Bill before the Senate is one which we on this side have been pressing the Government to introduce for some time now.

As the Minister of Planning and Development indicated in his opening statement, the draft of this Bill was issued some time in 1991, and it has taken us almost two years to have this Bill debated in this honourable Parliament. As you are no doubt aware, many citizens have suffered untold losses as a result of the present oppressive and unfair land acquisition law in our country. This is why, as I indicated some time ago, there is need for the Government to possibly look at retroactivity, particularly having regard to the fact that the Government had this draft out since 1991.

Land has been the basis of many conflicts and wars. We know that the whole French Revolution was on that basis, the American Revolution and the British Revolution. Land is a very important ingredient in people's sense of independence and direction.

In Trinidad and Tobago we know that the state owns a considerable amount of land. We also know that in our country we have a limitation in terms of land and, therefore, one of the points that we on this side have been advancing consistently, is the need for the Government to establish a proper land development policy.

We have not seen evidence of it; however, we have noted—and I will get into that a little later—in various contractual documents where the Government has given commitments to international organizations and agencies, in an effort to assure them that the Government is thinking about putting into effect certain policy measures to rationalize land use in the country. But as a Parliament, we have not been privy to any kind of documents, any kind of information, any legislation as to how Government intends to properly rationalize land use and distribute lands in an effort to avoid very rich arable lands falling to housing development. That is an area in which we have serious concerns.

Page 5 of a Draft National Policy for Food and Agriculture—a Green Paper of June, 1993, clearly outlines the total land area of our country and the proportion

that is owned by the state. Out of almost half a million hectares, we have the state owning close to 52 per cent. The state has recognized in this document that there is need for all to engage in the rational use of land.

While, for instance, in all the documents the Government has published over the years it has placed emphasis on the need for us to rationalize and to engage in proper land use, we have noticed, that year in year out, and particularly during the boom period, the Government acquired prime agricultural properties and we have lost many important pieces of land as a result of the Government's insensitive policy towards the whole issue of proper land use and land development.

One of the issues the hon. Minister would need to bring to our attention here, is that in putting into effect this piece of legislation, we need to ensure that the infrastructure is established. This piece of legislation would be able to function and we would get maximum advantage only if we have the proper infrastructure in place.

The working conditions of employees of the state in this particular division of operation, I can tell you, is horrendous. As my colleague indicated, we have a situation where very important and valuable documents that are required when people are conducting surveys and land searches are in a basement. Those documents are extremely valuable; they go right back to the seventeenth, eighteenth, nineteenth centuries, and because of the Government's lack of positive action on the computerization of the operations of that section, we have had many important documents simply not being able to meet the standard required for proper searches. We have had experiences down in the basement of the Red House where very important documents are stored in a vault, but they are not kept up to date. The Government is not taking the necessary measures to ensure that those seventeenth and eighteenth century documents are properly maintained; therefore the value of those documents is now in question. Some of these documents have become so illegible, one cannot read them properly, the documents are torn and therefore one of the things the Government has to pay attention to is the speeding up of the computerization of that Division. I think that there is need for the Government to deal with that very seriously.

One of the other areas the hon. Minister would need to focus on as well in this important document that is before this Senate, is the need for a proper approach to and planning for these land acquisition issues. This Senate has been burdened for

too long with the Minister coming here, once a month, once a fortnight to get this Senate to actually give approval to section 4 or 5, where the Government can begin negotiations with a view to compensating the persons whose lands have been seized.

I think that the time has come when the Minister of Planning and Development needs to view this issue in a more comprehensive manner. We ought not to be deliberating on acquisitions in this Senate every fortnight. I think that the Minister, as the person in charge, ought to be bringing these claims to this Senate on a quarterly basis, so that when he comes here he would be bringing a package, rather than subjecting this Parliament once every fortnight to the kind of experiences we have been having.

3.20 p.m.

In such an important matter before the Senate, the hon. Minister ought to have provided us with some appreciation of the moneys that are outstanding, the number of claims outstanding. Some time ago he indicated to this Senate that millions of dollars are owed to persons whose lands have been seized. Now we have a very important Bill before the Senate and I thought the Minister would have taken the opportunity to at least brief us on the issue of how many landowners have outstanding claims with the Government, and the actual sums involved.

We are not interested at this time, but I want to emphasize that small landowners ought to be given some degree of priority. I am not saying for a moment that people who own large properties, people who are rich landlords and the state acquired their property ought not to be compensated. But what we have observed is that the Government acquired properties since 1974 and came to this Senate in 1992 and 1993 in order to seek parliamentary approval to commence negotiations with the owners of those properties, with a view to properly compensating owners.

One of the things to be noted here—and it came out on the political platform at Laventille West last night—the Minister of Agriculture, Land and Marine Resources indicated at a public meeting that the properties being acquired—Charlotte Holdings and Property Securities Limited in order to facilitate, I would imagine the incubator facility that was mentioned some time ago in this

Chamber—were for the sum of $3 million. When I asked the hon. Minister at that time what was the sum involved, he could not provide this Senate with a figure, but lo and behold, on the news today at 12.00 noon we heard Minister Rowley indicating to the population at the public meeting that they are going to acquire those lands in the South Quay block—Henry Street, Charlotte Street and Independence Square South—for the sum of $3 million.

The Minister must have known *[Interruption]* That is what we learned from the news; I am just reporting what we heard on the news. When we asked this question we were not given the answer, but we were given an answer via a political platform last night by the Minister of Agriculture, Land and Marine Resources, who, I believe, ought to know. I do not know if that was a campaign speech, but that is what we got on the news today.

There was a bill issued in 1991 which apparently formed the basis of the new Bill before us. I sometimes wonder whether this Government is serious about addressing the problems of the people. In 1981 under the old PNM of Dr. Eric Williams—he had died a few months before that Bill was passed in the Parliament—the Land Registration Act, 1981, was passed in September.

That Act is yet to be proclaimed as law. It was passed in both Houses of Parliament in 1981, 13 years later, the PNM that was in power from 1981 to 1986, the NAR, from 1986-1991; the new PNM 1991—by 1994 they might be out, I do not know, they could go on until 1996—and yet the Government has not proclaimed this important piece of legislation. To understand the confusion, when the first draft was put out in 1991, reference was made in clause 2(2) to a land commission, but surprisingly, in the new Bill any reference to the land commission has been deleted, the reason being—

Mr. Sobion: Is there a land commission?

Sen. W. Mark: I am saying the reason that there is not a land commission in Trinidad and Tobago today is that the Attorney General has not proclaimed this very important piece of legislation. This bill that was passed by both Houses since 1981. We are saying, that the Government can set up a land commission to deal with the problems of tenants in this country. But this has been outstanding for 13 years. The Government had an opportunity before bringing this Bill to Parliament

to get the Act proclaimed, but it was not done. And that is causing many problems for tenants.

The issue referred to by my colleague earlier, title to landownership, is important, and the land commission would have gone a long way in dealing with that issue. The courts now have to handle matters that could have been addressed by an independent commission called the land commission, that would at least have been organized in such a way that you would have been able to vest it with full-time Puisne Judges, as was outlined in the legislation of 1981. Why has the Attorney General refused to have this very important piece of legislation proclaimed?

If that Act was law, we would not have had, as my colleague said, to establish under Part III of this Bill, clause 11, which states:

> "Any dispute as to compensation payable under this Act shall be determined by a judge in accordance with the provisions of this Part."

This ought to have read:

> "Any dispute as to compensation payable under this Act shall be determined by a land commission."

So, at least, you would have been able to establish that independent body that would have been sitting regularly to deal with these issues, rather than burden the already over-burdened courts at this time.

I feel that this is an injustice to poor people in this country, and that the old PNM of 1981 and this new PNM of 1991, have failed miserably to live up to that particular commitment to poor people. In its 1991 manifesto the PNM indicated that it was going to deal with these issues. But that was part of the platform.

I should like to indicate that it is very unfortunate that we are dealing with a matter like land acquisition and we are unable to put into effect this very important piece of legislation.

This Government is on record as attempting to regularize the rights of persons who have been described as squatters in this country. Yet, today as we meet, there are many important pieces of legislation that were passed by both Houses of Parliament that are yet to be proclaimed by this Government. These are issues that the Attorney General ought to be particularly concerned with in an effort to, at least, bring some justice to poor people.

3.30 p.m.

I listened very attentively to the hon. Minister when he made reference to subclause 3(1)(b) which states that a notice will be published twice in at least one daily newspaper circulating in Trinidad and Tobago. I think the hon. Minister must know that we have a daily press which is made up of many more than what he has mentioned or what the drafters have put in this Bill. I suggest that instead of having it published twice in at least one daily newspaper, it should be published in the daily press. There are three daily newspapers in Trinidad and Tobago. People seldom read the *Gazette*. That notice should be in the three daily newspapers. People's lands are being acquired.

Mr. Sobion: If there are four, five or six?

Sen. W. Mark: For purposes of the moment, I am suggesting to the Government that it needs to look at this particular issue. In 1991 when there were only two daily newspapers, the Government at that time—the Attorney General is apparently very hasty but he needs to pay attention to what the Government had then proposed.

Mr. Sobion: The then Government.

Sen. W. Mark: Well, you have inherited the IMF, why did you not dump the IMF? Why did you not dump the World Bank structural adjustment agreement. You inherited it all! You are a convenient man!

This is a Bill put out by the last Government—I am not arguing that—but it was inherited by this Government; and it has changed it conveniently. In this proposed draft it was recommended to the state that the notice should be published twice at least in the two daily newspapers circulating in Trinidad and Tobago. That was in 1991! What we are saying is that when the Government is taking people's land it ought to give them an opportunity to read about that in the newspapers, therefore, it ought to be published in the daily press. This is the simple point that we are making on this issue.

This Government ought to know that in attempting to deal with this piece of legislation that is before us, there are a number of issues that need to be balanced. We understand the philosophy behind this Bill. We understand the Government's thinking behind this Bill. We know for a fact that the Government has to balance the interest of the country as a whole and the interest of individuals who make up the state. That is the real philosophy behind this acquisition arrangement.

I see in an amendment circulated that the hon. Minister is proposing that the interest in clause 40 be at the rate of six per cent per annum from the date of

acquisition of the land under section 5 (1) until the date of the coming into operation of this Act, and the interest at the rate referred to from the date of the—

Sen. Dr. Saith: Nine per cent.

Sen. W. Mark: We suggest to the hon. Minister that we should look at the bank rate. We are saying that the Government ought to up this six per cent. We were saying 15 per cent, which is the prime lending rate in the country. If the Government is acquiring people's land in a very forcible manner—we have the living example of the treachery of this Government. If you acquire property for public purposes to advance the interest of the population, and the use of that land has been exhausted, the Government ought to have the moral responsibility to return the land to its rightful owners.

There is a situation in Trinidad and Tobago when it comes to land acquisition where when the Americans during the Second World War *[Interruption]* I am not getting into court. During the Second World War lands were acquired and people were removed from their properties in the Western Peninsula. The properties were used for purposes of the war effort of 1939-1945. The lands were returned to the PNM government by the United States Government in the 1970s. While one can understand why the lands had to be acquired at that time, when those lands were returned to the PNM in 1977, the Government of this country ought to have considered returning them to the rightful owners. Today, those lands down in the Western Peninsula are still under the control of the Government, and it has refused to give the people their lands *[Interruption]* That is another matter.

I know it is before the courts of the country but I think it is important to make reference to it because there is a situation where there was forcible acquisition, the useful purpose that the lands were put to had been served, the Americans have left the country, the war is over, yet the Government continues to occupy the lands and is refusing to give them to the rightful owners, including many persons from the Laventille West constituency who have had to leave Tucker Valley and Macqueripe and go and squat on the hills of Laventille. They want their lands back. That is an area that we feel the Government ought to really focus on and deal with very seriously—how it goes about acquiring lands.

It is our view on this side that this piece of legislation is long overdue—apart from some areas that we would put at the committee stage for amendment—so we urge the Government to ensure that a fund is set up for people's properties which happen to fall in the hands of the state. My colleague made reference to that matter earlier. It is important for the Government to establish some kind of land compensation fund so that when people's properties are acquired they can be

speedily compensated rather than having to wait for years and years to get their funds. As my colleague said, whether the Government raise bonds or do something else to establish that fund, we think it ought to pay attention to this particular point that we have made here.

3.40 p.m.

In the same way that the Government of this country has to come to this Parliament to get approval to negotiate the acquisition of property, we would like to suggest to the hon. Minister that he bring the Corporation Sole Act here for amendment. We would like to have a new law in this country. In the same way when the Government is going to acquire people's property—seize people's property for public purposes—it has come to Parliament, when it is disposing of the people's assets like T&TEC and WASA, when it is selling out our national assets, it ought to come and bring to the attention of this Parliament the rationale, the justification for doing so. These are important areas.

As we deal with this issue of land acquisition, we have to recognize that in the same way the Government is accountable to the Parliament when it seizes people's property and has to compensate them, it is the same way we expect this Government, when it is taking a decision in some lodge or board-room to determine, for instance, whether we will sell out our national patrimony, to come to this Parliament and let us know exactly what the justification is.

I am anxiously awaiting the Minister of Public Administration. I do not have a short memory. He gave a commitment to this Parliament and we are going to hold him to it. We are giving him until the end of December. He told us that he will bring all the documents on the Algico deal by year's end and table them in the Parliament to ensure that the transparency that we speak about is there. I await the delivery of those documents to the Parliament.

We call on this Government, when approaching land acquisition, to do so in a more comprehensive manner. We should like the hon. Minister to tell us in his winding up when the Government is going to bring to this Parliament a policy on land use and land development.

These are matters that may appear to be departmentalized, but we have to recognize, in the context of our development process, land acquisition, land utilization and land development are a package and, therefore, the Government has a responsibility, at least, to inform this Senate precisely how we are going to address the issue of land use. We understand that the Germans are buying out

Tobago. Our goodly Senator from Tobago sits and smiles, but they are buying out Tobago!

Sen. Callender: From whom are they buying it?

Sen. W. Mark: We need to have a policy on land use in our country. We cannot have foreigners coming from nowhere, from space, and just buying out our property. We cannot have that. Therefore, as we talk about land acquisition, I want to bring this point to the attention of the hon. Minister, that there must be a link between land acquisition, land use, and land development. We have to deal with that, and if we had a proper land development policy, my colleague at the back, Sen. Prof. Spence, who is becoming tired from actually pleading with this Government over the years to have a proper agricultural policy in this country—I am saying that if we see the package as I have outlined he would be a happier man in years to come.

But, what do we have? The Prime Minister, the "Joshua" who sold his car to Dole Chadee, goes to Laventille and promises the people soup and bread. People do not want soup and bread; people want land; people want jobs; they want sustainable employment. This is why, when we talk about agriculture, land use, and land acquisition, we are talking about these matters in the context of the overall development of Trinidad and Tobago, so that the people of the East/West Corridor can link with the people of South and Central through a process of agricultural development. That is a matter we will discuss in more detail when we come to the issue of the Government's Green Paper on agriculture.

Essentially, we would like to indicate to the Government that there are some areas in this Bill with which we are not happy. We are going to make certain suggestions at the committee stage for the Government's consideration, because this Government wants power. It has not taken a leaf from Mandela's book. We hope that the Government move towards the formation of a government of national unity and avoid collapsing in office! Take a cue from Nelson Mandela of South Africa, where the Whites and Blacks are coming together in a government of national unity, so that we can roll back the recession and crime, and make our country a better place in which to live.

But the Government does not want to share power so our position on this side in matters like these, is that we are going to propose our amendments. It is up to the Government to accept or reject them. The members of Government would have to live with their consciences. Right now, there is a battle in the fields of our country to determine at the bar of justice whether this Government is going to

plead guilty or innocent; or whether we are going to put it in jail for a long time—it all depends.

We are giving this Government an opportunity to rethink its position and to recognize that it has two more years to go. We are not too sure if it would make it. Even the Prime Minister had to admit that he spent the entire night—this man is a spiritual man—he does not sleep, Mr. President. He thinks about the country's problems. He says he does not have time to rest, he is so concerned about the people's problems. Mr. President, if we had a few more Prime Ministers like that, owe would have a better country. He thinks so much about the people's problems that he does not sleep!

But, Sir, we shall have to continue our discussions here at another time. I only want to tell the hon. Minister of Planning and Development there are some issues that we are going to put to the Government at the committee stage, and hope that the Government will accept our recommendations and suggestions in terms of strengthening the Land Acquisition Bill, which is now before us.

Thank you very much.

Mr. President: Would anyone else like to speak? *[Pause]* Minister of Planning and Development.

The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith): Thank you very much, Mr. President, and I thank the hon. Senators for their contributions to the debate on the Bill. I noticed, in his usual fashion, Sen. Wade Mark made his plea for a government of national unity. I would suggest that he, first of all, get an Opposition of national unity and, perhaps, he would now take Mr. Wilson into his bosom.

3.50 p.m.

Sir, let me try, without reference to names of Senators, to deal with the issues that I think were raised in the course of the debate. The first issue has to do with the call for the Government to indicate its policy on land administration and land distribution. I wish to remind hon. Senators that on March 16, 1993, a White Paper, *A New Administration in Distribution Policy for Land* was laid in this Senate, which set out clearly the objectives of our land policy, the actual way the Government was going to implement it, and let me just read for the benefit of Sen. Wade Mark, page 4, GENERAL POLICY GOALS:

> "The New Land Policy aims to maximize the benefits which the community derives from national land resources, while seeking a balance

between current gains and sustainable development. This entails the following:

(i) preventing prime agricultural land from being subjected to non-agricultural use by instituting a system of land zoning;

(ii) the provision of adequate security of tenure for tenants of State lands;

(iii) the discouraging of land speculation and the taking of steps to bring idle land into production;

(iv) the promotion of development that is sustainable economically, socially and ecologically;

all in the interest of securing greater efficiency in the use and management of land resources."

It is quite clear that despite the call for information, sometimes the information provided is not read. I shall also take this opportunity to deal with the question of the 1981 package of legislation, and why it has not been proclaimed. On page 23, is listed all the legislation which impacts on land administration. We went on to say at page 24 of the document.

"The following legislation-related initiatives are proposed:

(a) The 1981 package of property law reform legislation will not be brought into force at this time. In certain instances (discussed below) alternative measures will soon be introduced."

And we went through the rationale as to why we were not bringing the 1981 legislation. We went on to say:

"(b) Mandatory Title Legislation in order to facilitate the establishment and maintenance of a comprehensive Land Information System will be introduced."

That is what we are going to do.

"(c) Land Adjudication Legislation to permit more expeditious and cost effective determination of claims as well as to assist in the development of the Title Register will be enacted."

That is what we were going to do instead of the 1981 package.

"(d) A Land Tribunal Act will be enacted.

(e) The Partition Ordinance, Ch. 27 No. 14, (1950 ed.) to assist persons wishing to realize their interest in lands owned in association with others will be revised.

(f) New legislation to replace the Land Surveyors Ordinance No. 19 of 1952, will be enacted."

So it is quite clear and if they take the time to read the document, several of the questions raised and many of the difficulties they have in understanding what is going on, would be cleared up.

The question was raised as to what happens if someone objects and after six weeks, the state still goes in to take what has to be taken and do what has to be done on the land. That is not quite so. If there is an objection, until the objection is disposed of, no further action can be taken. Regulations will be made under the Act which would indicate the process by which—first of all, the objection should be made—it would be dealt with.

I think the key is related to a curious argument that Sen. Capildeo and others made, that because there may be concerns about the administration of legislation—or implementation to use Sen. Daly's term—we should not seek to improve and bring legislation. That is not Sen. Daly's point; it is Sen. Capildeo's. I really do not see the logic of that. If there are deficiencies in the law, I think it is incumbent upon us if we can improve on it that we do so, but having done so, I accept one must do so in the context of what one is going to do to improve the administration.

I think Sen. Daly is right in saying that in the end people are going to say: "How does it affect my getting paid?" Two things about the old legislation, I think, drove the whole process by which budgeting was done in Government and how people viewed land acquisition.

One was that until the section 5 notice was passed, we were not, in fact, obliged to negotiate and to finalize payment, so that there was always that gap. Advantage was taken of that gap or the process by which it happened. The new legislation makes it quite clear that from day one, from the day we move in, we have an obligation—and not only that—we are liable, provided the man can put his claim in, to pay 80 per cent. So, first of all, it drives the process that way.

Secondly, the old system is one in which in developing the cost for a project, land acquisition was not taken as a cost because there was no way to determine

what that would be, and, in any case, the way the system operated—it could be built, completed, the years would pass, the budget allocation would go by and maybe five or six years later, it is then that we would be faced with this sum of money that is payable for the acquisition of the land. Therefore, the whole budgeting process, especially of the capital programme, was one in which that cost was not added to the budget and the capital cost.

Also, it could not be predicted with any degree of reliability how much money would be needed in a particular year, because that would be dependent on whether a survey was done, section 5 was passed in Parliament and agreement was reached with the landowner. So that although in theory the Government is owing a substantial sum for lands because the lands have been acquired, in reality, for many of them the section 5 notices have not been published, and even where the section 5 notices have been published, the negotiations have not been completed and one is not sure when the negotiations will be complete. Therefore, the ability to predict a budgetary requirement for every year becomes difficult.

What I am hoping the new system will do, because it is now quite clear that from the moment one enters the land to start a project, a cost is incurred, is that in preparing a budget for a project say, a school, that in addition to having the cost of building, land grading and drainage, the cost of the acquisition will now become part of the budget. So that for a school costing $15 million, if the cost of the land is $200,000, the total cost will now become $15,200,000 and one provides in one's capital estimates $15,200,000 because that is a cost which has been incurred or will be incurred the moment one walks on the land.

Then in evaluating whether that project is feasible, viable and also whether the resources are there to do it, acquisition costs would have, in fact, been taken into account. When the decision is taken to build the school at a budget of $15,200,000 the payment for the acquisition is, in fact, being provided for. If this is done, if this drives that kind of budgeting approach, then the acquisition will be provided for, as everything else will be provided for—the architect's fees, the supervision of construction, the contractors and so forth.

4.00 p.m.

It is my hope that this will now force that kind of budgeting because by law you are now committed to paying from day one. If you do that—the backlog is going to take some time—in future you will see a system which provides the resources to pay for acquisition at the same time that you are providing the resources to do the project itself. When you really look at it, especially in the case of capital

projects where most of the large land acquisitions take place, the cost of acquisition is a very small percentage of the cost of the project. You take a highway and you would probably spend $40 million to $50 million. The cost of the acquisition is a very small portion and, therefore, should be included in the cost of the project. I hope that answers to some extent the question of how this new system can be implemented in a manner that would provide the compensation. Given the fact, as I said that from day one it is a charge that you have to meet and that you are required to pay at least 80 per cent of the possible claim, it will form part of the budgeting process.

I wish to indicate to Sen. Wade Mark the reason the section 5 notices came up the way they did—it was not once every two weeks; I am sure of that—it was because of the system where you could not start negotiations until the section 5 notice was, in fact, published, as soon as a survey was done and the information was available, one sought to try to get it to Parliament so that the Valuation Division, and the Commissioner of State Lands could start negotiations. This is no longer required because negotiations will, in fact, start from the day you move onto the land and there would be no need to rush them. They could, in fact, come in batches to Parliament.

I wish merely again to advise Sen. Wade Mark that the whole question of the control and use of land is important, and that one of the exercises being undertaken in the Ministry at the moment is a revision of the Town and Country Planning Act. And I hope—having learnt my lesson I am not going to give a date—that we would be able shortly to bring that Bill to Parliament.

I believe I have covered most of the points raised and I would therefore at this point beg to move that the Bill be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Sen. W. Mark: Mr. Chairman, I beg to move the following amendment to clause 3(1)(b) as was indicated in our contribution:

"Instead of 'twice in at least one daily newspaper' it should be 'twice in at least two daily newspapers'."

Sen. Dr. Saith: Mr. Chairman, I do not think you could read clause 3(1) (a) and (b) without looking at clause 3(2), which really is the means by which the landowner is advised. This requires that the notice, either personally or by registered post, be delivered to the owner. I think that is where you deal with making sure that the owner gets the information. In the circumstances I think that "twice in at least one daily newspaper" is enough.

Sen. W. Mark: So what is the difficulty in ensuring that the notice is—

Sen. Dr. Saith: It is a question of judgment. One could say, why twice, why not three times, and why two newspapers, why not three newspapers? I am saying that what we are seeking to do here is to put it in the *Gazette* and at least one daily newspaper. But the key to the provision is the fact that the notice must, in fact, be served on the person. At the moment all you need to do is put it in the *Gazette* and that is the end of it. The key is that the notice must get to the man, and within seven days it must either go personally or by registered mail. And if they cannot find the people, it must be placed on the land so the people there could see it.

Sen. Prof. Spence: Mr. Chairman, I do believe that if one looks at the reality in Trinidad and Tobago, there are two daily newspapers with a fairly wide circulation—

Hon. Senator: Three.

Sen. Prof. Spence: This is why I said, with a fairly wide circulation. I read one and not two and I think it is sensible to put it in both—

Sen. Dr. Saith: But it says, "at least one."

Sen. W. Mark: Well you could say, "at least two." What is the problem in terms of trying to ensure that you have a second—I do not think that should be a big problem. It is just to ensure that people have information on it.

Sen. Dr. Saith: I am also told that the reason for not putting two is, heaven forbid, if we ever got to the stage where we have one daily newspaper, then we

would have to come and change the law, because the law would be saying that you must find at least two daily newspapers—

Sen. W. Mark: Well I do not think that you are going down the road of dictatorship, so we would always have more newspapers. I do not think that is a good argument.

Sen. Dr. Saith: I am saying that "at least one daily newspaper" gives you the flexibility to put it in as many as you wish.

Sen. W. Mark: What is happening here is that clause 3(1)(b) is saying, "twice in at least one," so what you can have is that in the same newspaper, let us say, the *Express*, you may have, for instance, on different days, the notice in the same newspaper. All I am saying is that we should strive towards putting one in the *Express* and one in the *Guardian*.

Sen. Dr. Saith: Yes, but we are saying you should not write that into legislation because you have to write legislation on the basis of the worst possible case, which is one daily newspaper. I had put it in a way that leaves the Government or whoever is administering it, to put it in as many newspapers as it wants, and that is why it says, "at least one."

Sen. Prof. Spence: Would it not be better to say, "twice in a daily newspaper," and then you can put in one or two?

Sen. Dr. Saith: This says "at least," so it gives you more than twice.

Sen. Prof. Spence: It says, "one," therefore, it means that you have to put it twice in the "one." That is how this reads. You have to put it twice in one, the way this is worded.

Sen. Dr. Saith: Twice in a daily newspaper?

Sen. Prof. Spence: If you said, "a" instead of "one"—

Sen. Dr. Saith: That makes it definite that it is going in the same newspaper.

Sen. Prof. Spence: It is not a big deal. Let us move on.

Sen. Dr. Saith: The idea, I am advised, is that you do not want the law written in such a way that if something happens you have to come back to change it. But it is not the intention not to let people know, otherwise you would not go to subclause (2).

Question on amendment put and negatived.

Mr. Sobion: Mr. Chairman, in (6)(a) I beg to move the following amendment:

"Substitute the word "or" for the word "and" appearing between (a) and (b)."

What was intended there is that the right of the Commissioner to enter into any building should be either with the consent of the occupier, or after giving to the occupier at least twenty-four hours' notice in writing.

Question, on amendment, put and agreed to.

4.10 p.m.

Sen. W. Mark: Mr. Chairman, before you proceed, can we go back to subclauses (4) and (5)?

Leave granted.

We should like to suggest to the hon. Minister that instead of having a six-week period, a two-month period is more reasonable. Also, we feel that instead of seven days, a two-week period will be a more reasonable period in this new arrangement.

Sen. Dr. Saith: Mr. Chairman, we are getting into judgment calls here; we all have different views. We debated this issue, whether it should be four, six or eight weeks, and I think the quadrants of information available to us, is that it was a reasonable time. Let us see how it will work. If it turns out that it is not long enough, then laws can be amended, but we are not horse-trading over one week. You have to understand the basis on which the Bill is coming; we are seeking to improve the situation.

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.

Mr. Sobion: Mr. Chairman, in clause 4 subclause (4)(a), the words appearing after "Commissioner" in line 2 beginning with the word "and" and ending with "under subsection (3)(b)" are not necessary, and, therefore, should be

deleted,because the right of the occupier becomes vested only where possession actually takes place. If you look at subclause (3)(b):

> "any person interested becomes entitled, as from the date of the taking of possession..." and subclause (4) deals with if the Commissioner fails to take possession, so there will be no right vested in the owner of the land; so that the words "and the rights of any person interested under subsection (3)(b)" should be deleted.

Mr. Chairman: The amendment to clause 4 subclause (4)(a) proposed by the Attorney General is that:

> '"and the rights of any person interested under subsection (3)(b)" appearing immediately after the word "Commissioner" in line 2 be deleted."

Sen. Prof. Spence: Mr. Chairman, I do not follow; can I hear it again?

Mr. Chairman: The amendment proposed is that the words "and the rights of any person interested under subsection (3)(b)" appearing after the word "Commissioner" in line 2 of clause 4 subclause (4)(a) be deleted.

Sen. Prof. Spence: I wish we could have these amendments in writing. I am sure it is all right, but it is difficult to understand the changes being made.

Mr. Sobion: If I may, the right of the person is stated in subclause (3)(b) above, and that right vests on the taking of possession. Subclause (4) deals with a situation where the Commissioner fails to take possession. There is no right in the owner at that point, so those words are not necessary.

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.

Mr. Sobion: Mr. Chairman, I beg to move that clause 5 be amended as follows:

> 'In subclause (3) by deleting the word ‘shall’ and substituting the words 'may by Order."

The purport of it is to take away the mandatory nature of the formulation, as it now stands; instead of "shall make" we are substituting the word "may" and

specifying the manner in which the declaration is to be made. So, we are substituting the words "shall make" and saying that "The President may by Order make a declaration..."

Question put and agreed.

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

Clauses 6 to 11 ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Sen. Prof. Spence: Mr. Chairman, with respect to clause 12 subclause (8), should there not be a right of appeal? Or, will that be taken care of in the regulations? The Minister assumes it is insignificant:

> "...issue to the applicant a certificate in such form as may be prescribed, stating in respect of the land, the use that might have been permitted by the Minister had application for planning permission been made under the Town and Country Planning Act."

But under the Town and Country Planning Act, is there a right of appeal?

Sen. Dr. Saith: Yes, because we are under the Act.

Sen. Prof. Spence: So, do you mean that those provisions would apply in the way it is referred to there?

Sen. Dr. Saith: The person has a right to make an application to say, what, could he have used this land for? The Minister then, within one month, has to issue a certificate which would say yes or no. If he does that under the Town and Country Planning Act then that Act allows the person to appeal.

Sen. Prof. Spence: That is right, but he is not doing it under the Town and Country Planning Act; he is doing it under this Act, and he is doing it in the same way as he would have done it under the other Act. Therefore, no right of appeal is given here.

Sen. Dr. Saith: I am told that there is no right to appeal here—

Sen. Prof. Spence: That is what I am saying.

Sen. Dr. Saith: Because it is really a hypothetical case.

Sen. Prof. Spence: Yes, but the hypothetical case is affecting what is happening here. If you had been applying for permission for change of land use under the Town and Country Planning Act, you would have a right of appeal. Here the decision is being made on that basis, but one has no right of appeal against the decision. All I am suggesting is that you should make some provision here that allows one to appeal the decision which is affecting the value of one's land which one would have been able to do had one been asking for approval of change of use under the Town and Country Planning Act.

Sen. Dr. Saith: I take the point.

Sen. Prof. Spence: That is all.

Sen. Dr. Saith: But the Attorney General has advised me that we can do that under the regulations.

Sen. Daly: Mr. Chairman, would the problem be solved if we left out the words "by the Minister" and let it simply read "the use that might have been permitted had application for planning permission been made under the Town and Country Planning Act?" Leave open the question of being permitted by whom.

Sen. Dr. Saith: No, it is not the question of permission by whom. The Town and Country Planning Act allows the Minister to do it. In fact, the Minister is the one with the power; the Director under the Town and Country Planning Act exercises the power on behalf of the Minister. If he refuses you, then the Act allows the person to appeal to the Minister to review the Director's decision, and at that time the Minister then uses whatever mechanism is available to review the decision. *[Interruption]* Yes. I agree it should be done, and I think the way to do it is in the regulations, to say that if one makes the application and is not satisfied, one can appeal to the Minister for review. *[Interruption]*

Mr. Sobion: What one can do is to incorporate the appeals procedure of Town and Country's existing legislation and say that it shall apply in relation to an application. That will be the way to do it.

Sen. Prof. Spence: Are we doing that right now?

Sen. Dr. Saith: I think we would deal with that in the regulations,

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

4.20 p.m.

Clauses 13 to 19 ordered to stand part of the bill.

Clause 20.

Question proposed, That clause 20 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 20 be amended as follows:

A. In subclause (2), delete paragraphs (a) to (c) and substitute the following paragraphs:

"(2) Interest shall accrue -

(a) where possession of the land is taken under section 4(1), from the date of the taking of such possession until the date of payment of compensation;

(b) where no possession of the land is taken under section 4(1) and the amount of compensation is being determined by a Judge, from the date of publication in the *Gazette* of the declaration made under section 5(3) until the date of payment of compensation, but subject to subsections (3) to (5) of this section;

(c) where the compensation has been agreed between the claimant and the Commissioner or has been determined by a Judge, from the date of publication in the *Gazette* of the declaration made under section 5(3) until the date of payment of compensation, but subject to subsections (3) to (5); and."

B. In subclause (3) delete the word "Commission" and substitute the word "Judge".

Essentially it makes no real difference; it just tidies up the drafting. And, we have found one other reference to "Commission" in subclause (3), and that is deleted, and the word "Judge" is substituted. I propose, therefore, that the amendments as circulated be considered.

Sen. Prof. Spence: I have some sympathy for the point Sen. Wade Mark made, although he has not raised it again, in the sense that there should be some relationship between the interest that is being paid here and the prime lending

rate. Otherwise, the Minister of Finance has complete authority to make any Order. He might make it three per cent. Could it not be related to the prime lending rate in some way?

Sen. Dr. Saith: We discussed this a great deal. I do not think it could be related to the lending rate. It has to be related to the opportunity cost of that money. In other words, what the money would earn elsewhere. It might be in Treasury Bills or in fixed deposits.

Sen. Prof. Spence: Those are all related to something.

Sen. Dr. Saith: Not really**.** The present statutory interest is six per cent We tried to look at what could be an average of fixed deposits at present, and came up with nine per cent, and then put it in rather than having to come back to Parliament each time as the interest rate fluctuates. If the fluctuation was large enough then the Minister of Finance could adjust the rate, and it would be adjusted. It would only go down if interest rates generally in the country were dropping.

You have to accept that where you want to build flexibility into the system, you have to take the position upfront that Ministers of Finance are not going to be less than just in how they deal with the issue.

Sen. Prof. Spence: I am just thinking of the time when this Government may not be in power.

Sen. Dr. Saith: I am hoping that even the next government whenever it comes, 2024—

Sen. Prof. Spence: The Bank of England—

Sen. W. Mark: Mr. Chairman, even if the Minister does not want to consider the rate of 14 to 15 per cent—that is the prime lending rate—I believe there is justification for at least going from the six per cent. I understand the point that he is making partially.

Sen. Dr. Saith: We have moved it to nine. It is about the average people get for fix deposits now.

Sen. Daly: I accept what Sen. Wade Mark is saying.

Sen. Dr. Saith: If he would take the millions out of the mattress.

Sen. W. Mark: He speaks from experience.

Question, on amendment, put and agreed to.

Clause 20, as amended, ordered to stand part of the bill.

Clause 21 ordered to stand part of the bill.

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Sen. Prof. Spence: Under subclause (3), could it not say something like this: "without prejudice to the final determination of compensation"? I am asking the lawyers' advice in this regard. Does that eighty per cent fix the final payment or should it say "without prejudice to the final determination of compensation"?

Mr. Sobion: Which is the specific provision you are referring to?

Sen. Prof. Spence: Clause 22 (3), where you make an advance payment of 80 per cent, I am saying that 80 per cent does not fix the final—

Sen. Dr. Saith: It does. 80 per cent is on the Commissioner's estimate. You have to start with a figure to get the 80 per cent, and one is saying we start with the Commissioner's estimate.

Sen. Prof. Spence: And the wording is all right? It is an estimate.

Question put and agreed to.

Clause 22 ordered to stand part of the Bill.

Clauses 23 to 29 ordered to stand part of the Bill.

Clause 30.

Question proposed, That clause 30 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that this be amended as follows:

That in subclause (3) the word "Minister" in line three be deleted and be replaced by "Registrar". The Minister is, in a sense, party to this transaction. The cost should be assessed by an independent person.

Mr. Chairman: The amendment is that clause 30(3) be amended by substituting the word "Registrar" for the word "Minister" in line three.

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clauses 31 to 37 ordered to stand part of the Bill.

Clause 38.

Question proposed, That clause 38 stand part of the Bill.

Mr. Sobion: Mr. Chairman, in respect of clause 38, this amendment is not on the circulated list. But, at the beginning of line one after the words "The Minster," the words "to whom responsibility for town and country planning is assigned are superfluous." The definition section already deals with that. So we delete those words. I beg to move.

Mr. Chairman: The question is that clause 38 on page 39 be amended by deleting the words "to whom responsibility for town and country planning is assigned" occurring after the word "Minister" in line one and continuing in line two.

Question put and agreed to.

Clause 38, as amended, ordered to stand part of the Bill.

Clause 39 ordered to stand part of the Bill.

Clause 40.

Question proposed, That clause 40 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 40 be amended as follows:

"Delete subclause (4) and substitute the following subclause:"(4) Where land was acquired under section 5 of the former Act, but at the date of the coming into operation of this Act the determination of compensation in respect of theland has not been completed, the provisions of this Act except for sections 12 and 14 shall apply and compensation -

(a) shall be determined as if section 11 of the former Act had not been repealed; and

(b) shall include-

(i) interest at the rate of six per cent per annum from the date of acquisition of the land under section 5(1) of the former Act until the date of the coming into operation of this Act; and

(ii) interest at the rate referred to in section 20(1) from the date of the coming into operation of this Act until the date of payment of the compensation."

The amendment seeks to really make quite clear exactly how we ought to deal with claims which would have been existing under the Act which is now going to be repealed, and to make it clear how the interest payments are to be calculated.

Sen. Daly: Split the interest into six and nine. Six has been low for so long, do we really need to hark back to the days of six?

Mr. Sobion: It was thought in the interest of fairness—there are a number of claims, some of which have been disposed of recently under the old legislation; there are matters which are pending. The Act stands until it is repealed—fixed at six per cent, and, therefore, we thought that if we are going to increase, it should be from the time the new Act comes into force.

4.30 p.m.

Sen. Daly: Do the people who have their claims settled have the use of the money? What about those who are still waiting? It will speed up things. If it is 9 per cent now, it will cause the backlog to go down a bit quicker.

Sen. Dr. Saith: I am being told that one of the reasons is that sometimes the delays are caused by the claimants themselves not providing proof of ownership. The fact that a claim has not been settled may have been as a result of that. They, therefore, will be getting an advantage over someone who has complied—

Sen. Daly: Can we not say, "nine per cent and less" and let your experts specify? It is very parsimonious—

Sen. Dr. Saith: When you get into the "and less and less" then you are going into judgment again and argument about it. It is really six of one and half a dozen of the other. We debated this for a long time.

Sen. Daly: Maybe we can put a date, "unless the matter is settled by the end of 1996," or so.

Sen. Dr. Saith: It may not be settled because they are still waiting on information; arguments are going on and all the rest of it.

Sen. Daly: But we want to put an end to these arguments.

Sen. Dr. Saith: I am sure it will work.

Sen. Daly: We know how it will work—badly.

Sen. Dr. Saith: I do not want to make it complicated. I want to be able to administer it without someone having to exercise judgment on a—

Sen. Daly: In this way, you need exercise no judgement at all. It is a recipe for inaction. You can leave the claim pending forever. Anyway, as you please.

Question put and agreed to.

Clause 40, as amended, ordered to stand part of the Bill.

Clause 41 ordered to stand part of the Bill.

First and Second Schedules ordered to stand part of the Bill.

Question put and agreed to, That the Bill, as amended, be reported to the Senate.

Senate resumed.

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

ADJOURNMENT

Motion made, That the Senate do now adjourn to Tuesday, May 10, 1994 at 1.30 p.m. *[Sen. Dr. The Hon. L. Saith]*

Mr. President: Before putting the question, Sen. Everard Dean has obtained leave for a matter on the adjournment. Sen Dean, you have 15 minutes and the Minister has 15 minutes to reply.

PTSC Credit Union

Sen. Everard Dean: Mr. President, it is with great concern and a deep sense of urgency that I bring this Motion to the attention of the Senate and especially to the Minister concerned. This situation is causing some anxiety among members of the PTSC Credit Union.

Before I go through the background to this matter, I just want to read a letter dated April 14, 1994, and addressed to me by the Public Transport Service Corporation Credit Union Co-op Society Limited. It says:

"Dear Senator Dean,

The Public Transport Service Corporation Credit Union requires your assistance in a dispute between itself and the Public Transport Service Corporation (PTSC).

The PTSC currently owes the PTSC Credit Union approximately $2 million dollars representing Credit Union deductions made from workers' salaries for

the weeks ending January 19th and 26th; February 2nd, 9th, 16th and 23rd; March 2nd, 9th, 16th, 23rd and 30th; and April 6th, 1994 and for monthly paid workers for February and March 1994.

All efforts to have these monies remitted to the Credit Union have, so far, been fruitless.

The Corporation has adamantly maintained the position that the Government has only been remitting NET deductions for workers. Efforts to verify the accuracy of this statement have been futile.

Senator Dean, there are over one thousand five hundred (1,500) of our members who are being financially affected by the non-remittance of their monies to the Credit Union and their situation worsens with each passing day.

Any assistance you can provide in settling this matter will be greatly appreciated."

It is in this context, Mr. President, that I bring this Motion to the attention of this honourable Senate.

By letter dated September 22, 1993, the credit union wrote to the General Manager complaining about the delays in receiving cheques for moneys owed to the credit union.

On October 13, 1993, the PTSC responded through the Corporate Manager, Finance and Accounts, apologizing for the delays in submitting moneys promptly and advised that the delays were as a result of late receipts of the releases by Government. They, therefore, were unable to make payments.

By letter dated February 3, 1994, the credit union again wrote the General Manager stating that the position remained the same and requesting the remittance of payroll deduction cheques, and also requesting a meeting with the Corporation to discuss the matter.

By letter dated March 16, 1994, the credit union again wrote the General Manager noting their dismay that after 14 days the Corporation had not followed through with its promise to write the credit union on the matter. The credit union, therefore, threatened to take appropriate action if no response was received within seven days.

By letter dated March 24, 1994, the credit union received a letter from the Corporate Manager apologizing for their tardiness in responding and indicating that the matter was discussed with the Prime Minister at a meeting held on March 22, 1994.

By letter dated March 29, 1994, the credit union wrote the Minister of Public Utilities pointing out the circumstances and advised that an explosive situation exists between the PTSC and the credit union. I am advised that the credit union received no written response from the Minister.

4.40 p.m.

As indicated earlier, on receipt of the letter of April 14, I sought to intervene in the matter, and by letter dated April 18, I wrote the Minister of Public Utilities seeking his assistance.

In subsequent conversation with the Minister, he advised me that a release of over $700,000 had been made. In fact, I am advised that to date a further sum of $153,000 has been released. But regretably, Sir, we are back to square one, in that, as at 1.00 p.m. today, the Public Transport Service Corporation owed the credit union $1.7 million, notwithstanding the fact that they received $722,183.39 on April 19, and $153,177.50 on April 29, 1994, bringing it to a total of $875,360.89. A meeting scheduled for 10.00 a.m. on May 2, 1994, between the credit union and the Corporate Manager of Finance and Accounts, Mr. Curtis Williams, never took place because Mr. Williams never showed up.

As I indicated, the total at 1.00 p.m. today, was $1.7 million for the following periods: weeks ending February 23; March 2, 9, 16, 23, 30; April 6, 15, 20, 27 and monthly payrolls for March and April 1994. My information is that the weekly take is $152,000 and the monthly is $80,000.

I raise this matter because at a time when the credit union movement is under scrutiny by the Government, one can imagine that it is not only the credit union to blame; Government has to accept some of the blame. I want to quote a few lines from a document entitled *Aide Memoire* which the Government circulated about mid-1992; it says:

> "Government has recognized the significance of the credit union movement to the overall economic growth and development of Trinidad and Tobago. As a result, the Cabinet of Trinidad and Tobago has noted that given the present importance of credit union cooperative societies in the local financial sector, their significantly large asset portfolios and their increasing quasi-banking

functions, it has become necessary to supervise their performance appropriately and adequately in order to ensure that they operate in an effective and efficient manner,…"

It is a credit union, Mr. President; it cannot operate without money.

"that all legal requirements are being met and that the assets of members are sustainably secure."

I repeat: "and that the assets of members are sustainably secure."

We heard earlier on that the prime rate is about 14, 15 per cent. This credit union has to operate. It has to operate on an overdraft. It has to pay the charges for that to service its members. In fact, at the end of the year the members expect a dividend. Their money is costing them in the vicinity of about 20 per cent, assuming they are paying 15 per cent overdraft and they will declare a 5 per cent dividend.

The-*Aide Memoire* continues:

"Consequently, Government intends to strengthen the supervision of credit unions in order to safeguard the interest of shareholders."

Who needs supervision, Mr. President? Is it the credit union? Or is it the PTSC, or the Government? This is what I would consider immoral; in fact, it is outrageous and possibly an institutional crime, as my Friend indicated to me some time ago. This has far-reaching consequences. And the same thing happened to the WASA credit union—understandably they had some management problems; the same thing happened with the County Council Credit Union, and the same thing happened to other small credit unions which expect an intake from Government as far as these public utilities are concerned.

And to expand—I hope you will permit me, Sir,—the deductions made do not apply only to credit unions. What happens to the income tax deductions? What happens to the National Insurance deductions? What happens to the Health Surcharge deductions? Mr. President, I am sure you will agree that this situation is unacceptable, and efforts should be made—like yesterday—to have this matter corrected. I hope that the Minister responsible will take the necessary action to have this matter rectified.

The Minister of Energy and Energy Industries and Minister of Public Utilities (Sen. The Hon. Barry Barnes): Mr. President, Sen. Dean has taken the Senate into the history of the matter of the PTSC credit union, and, indeed I am

grateful for his presentation, because some of the earlier details I was not even aware of. Be that as it may, perhaps we should remind the Senate that there is a reality in the PTSC that its revenues, such as they are, are very much less than its expenditure and it continues to operate on the basis of subventions and subsidies received from the Government.

Within that framework, the PTSC is in a situation where to meet its wage bills, it now receives direct contributions from the Ministry of Finance, and those were in fact being provided net of deductions.

4.50 p.m.

In the case of the credit union and the situation that then developed, Sen. Dean is quite correct. The moneys owed exceeded $2 million: the contributions from the weekly-paid employees average $150,000 per week, monthly-paid employees $70,000 per month. There was a payment made against the backlog—$722,186 on April 20, and there was a commitment that the PTSC would endeavour to meet the ongoing weekly and monthly payments to prevent a further accumulation of the outstandings. There have been ongoing meetings and discussions and correspondence between the PTSC and the credit union in respect of finding some accommodation to wipe off the outstandings.

Sen. Dean has made the point that the PTSC Credit Union now operates on overdraft and has to pay overdraft expenses. Part of the consideration in moving towards a solution was the recognition that to keep things going, this had to be done, and the PTSC is saying, let us sit down, let us meet, let us work something out—perhaps we can carry the interest cost of that overdraft over the period so that the rest of the backlog can be brought uptodate over a six-month or whatever period.

This has been going on and I find it a little strange—and it shows something of the tension that might be existing. Because they are all part and parcel of the same organization they should be able to sit down and recognize a common difficulty, recognize an interest in trying to find a mutually supportive way to get the backlog paid off, even if it means running the overdraft a little longer and PTSC picking up the cost. In the final analysis, it is a matter of equation; it is a matter that can be calculated.

Sen. Dean also made the point that the meeting scheduled for yesterday did not take place. There is a reality of existence that things come up, but I am assured that that meeting is scheduled under the General Manager for tomorrow at 10.00 a.m.

The outline of the proposals that the credit union has been asked to consider is there, and PTSC is hoping that there will be some kind of response that allows a mutual approach to the settlement of a matter that has been outstanding for some considerable time.

In a way, it seems to me that it is, after all, the Public Transport Service Corporation, and on both sides they are the corporation's people, and with a little goodwill, if they commonly recognize the difficult situation through which the PTSC is going, they can work out an accommodation. It would be my hope, and, indeed, I think an advantage, if by talking to the people on both sides and saying that all of us can identify problems, but you are so much brighter than I am, tell me what the solution is and let us proceed on that basis, we might more readily arrive at some kind of accommodation that could resolve the matter.

One thing is absolutely certain, and I can say that as Minister, there is no way at this point that the Public Transport Service Corporation can find the money to wipe off the total backlog. So that some form of accommodation has to be made. And with a little understanding on both sides I personally do not think that the matter is unresolvable.

That is as much as I would wish to say at this time, Mr. President, and I thank the Senate for giving me the opportunity.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.55 p.m.