

**SENATE***Tuesday, January 10, 1995*

The Senate met at 1.30 p.m.

**PRAYERS**[MR. PRESIDENT *in the Chair*]**PAPERS LAID**

1. Report of the Auditor General on the accounts of the Sangre Grande Regional Corporation for the year ended October 01, 1991 to December 31, 1991. [*The Minister of Planning and Development (Sen. The Hon. Dr. Lenny Saith)*]
2. Report of the Auditor General on the accounts and financial statements of the Technical Assistance Loan Project for the year ended December 31, 1993 as required by Loan Contract No. 3153-TR between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction and Development. [*Hon. Dr. L. Saith*]
3. Report of the Auditor General on the Accounts of the Institute of Marine Affairs for the year ended December 31, 1993. [*Hon. Dr. L. Saith*]
4. The Regional Health Authorities (Contracting for Goods and Services) Regulations, 1994. [*Hon. Dr. L. Saith*]
5. The Regional Health Authorities Order, 1994. [*Hon. Dr. L. Saith*]
6. The Minimum Wages (Security Industry Employees) Order, 1994. [*Hon. Dr. L. Saith*]
7. Thirty-third Report of the Salaries Review Commission—Review of the Terms and Conditions of Employment of the office of Executive Director, Investment/Divestment. [*Hon. Dr. L. Saith*]

**ORAL ANSWERS TO QUESTIONS**

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

**Amoco  
(Expatriates)**

3. Could the Minister of Energy and Energy Industries state:
- (a) How many expatriates are employed at Amoco Trinidad Oil Company at the present time and their respective classifications?
  - (b) The precise number of expatriates and their respective classifications employed at Amoco Trinidad Oil Company during the period 1991, 1992, and 1993?
  - (c) The total number of expatriates employed in the oil and gas industries as well as their various classifications for the period 1991, 1992, 1993 and 1994?

**Drilling Fluids Limited**

4. Could the Minister of Energy and Energy Industries kindly state:
- (a) Whether he is aware of the existence of a service company by the name of Drilling Fluids Limited (DFL)?
  - (b) If he is so aware, could the Minister state what relationship, if any, exists between this company and the Government of Trinidad and Tobago in respect of the provision of services to most, if not all, the major and recently attracted oil and gas companies?

**Insured Replacement Value  
(T&TEC)**

5. Could the Minister of Public Utilities state:
- The precise insured replacement value of the plant, equipment and machinery at the Trinidad and Tobago Electricity Commission (T&TEC), in respect of the generation capacity for the years 1992, 1993 and 1994?

**Amoco Business Development Company  
and Amoco Trinidad Oil Company**

6. Could the Minister of Public Utilities indicate:
- (a) The precise role of Amoco Business Development Company in the proposed joint venture arrangement with T&TEC?

- (b) Will the Minister also state whether Amoco Trinidad Oil Company will be supplying cheap natural gas to T&TEC in order to maintain the present cost of electricity supply to the household, industrial and commercial users respectively?

**The Minister of Energy and Energy Industries (Sen. The Hon. Barry Barnes):** Mr. President, after discussion with Sen. Wade Mark, regrettably I must ask for a postponement of one week on questions Nos. 3, 4, 5 and 6.

*Questions, by leave, deferred.*

#### ARRANGEMENT OF BUSINESS

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr. President, I seek leave of the Senate to deal with the Environmental Management Bill before Motions.

*Agreed to.*

#### ENVIRONMENTAL MANAGEMENT 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 a Bill to provide for management of the environment and natural resources within Trinidad and Tobago through the establishment and operation of an Environmental Management Authority, an Environmental Trust Fund and an Environmental Commission, to define the powers and duties thereof, and for related matters incidental thereto, be read a second time.

Mr. President, the Ministry of Planning and Development in its legislative agenda identified three major pieces of legislation for priority consideration. Each would require comprehensive analysis, new legislation and would change significantly the way development proceeds in this country.

The first was the system of land acquisition, in respect of which a bill was introduced last year and has now been passed in both Houses of Parliament. The second is before us today and deals with the protection and management of the environment. The third which will replace the existing Town and Country Planning Act is now in draft form and is soon to be put out for public comment.

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Mr. President, in bringing to Parliament the Environmental Management Bill, the Government fulfills a pledge made to the population in the PNM's 1991 Election Manifesto. If you permit me I would like to read from page 30 of the manifesto.

It says:

"The PNM believes that the current portfolio and focus of the Environment Ministry are inappropriate. The PNM sees the need for an environmental regulatory agency with more power and resources than obtains at present.

Accordingly, in recognition of the need to preserve our environment for the generations to come, the PNM will establish an Environmental Protection Agency (EPA) reporting to the Minister of Planning. The EPA will be a high-powered agency mandated to set environmental standards for Trinidad and Tobago, and will coordinate all environmental protection functions now resident within individual ministries. It will be empowered to enforce environmental legislation.

The PNM Government will ensure that industrial development is undertaken in a manner consistent with the preservation and protection of the environment and the health and safety of our people."

There is one important shift in policy emphasis which is noticeable between that stance and the legislation that has been brought to Parliament today. It is the decision to avoid undue stress on "environmental protection" (and by implication the pollution control dimension) in favour of a broader focus on "environmental management".

In particular, we wish to ensure that as we continue our efforts to develop the country, the growth that takes place is sustainable and consistent with the need for resource conservation and environmental preservation. We wish, therefore, to establish a framework that will adequately support appropriate conservation policies and other proactive strategies for the preservation of the environment.

**1.40 p.m.**

The steady growth in scientific knowledge about ecosystems has engendered a growing international awareness about the complex and sometimes subtle interactions between practices of management and utilization of natural resources and other environmental assets and the sustainability of developmental activity which aim to secure growth and the alleviation of poverty.

In bringing this legislation to Parliament, the Ministry is also concerned to check the growing incidence of environmental degradation, manifest in such areas as: forest destruction, especially in the Northern Range; river pollution; irresponsible quarrying of limestone, gravel and sand; water pollution, particularly in the west coast; soil pollution resulting from indiscriminate use of agricultural chemicals; improper disposal of liquid and solid wastes. These problems are the result of both the inadequacy of the existing legal, regulatory and institutional framework and improper environmental management. The Government aims in this legislation to remedy these deficiencies.

Against that background, the objects of the Bill are clearly set out in clause 4. In summary, they are:

- (a) to build national environmental awareness;
- (b) to encourage the private and public sectors to integrate environmental concerns into their decision-making;
- (c) to achieve adequate integration of the country's environmental management system;
- (d) to establish a sound, comprehensive, and consistent legal and regulatory framework for environmental management; and
- (e) to develop appropriate environmental policies and effective institutional arrangements for carrying out or enforcing these policies.

Mr. President, the process which has led to the presentation of this Bill was commenced in 1992, shortly after this Government took office. It started with a review of the existing legal and institutional framework for environmental management, and among the serious weaknesses identified were the following:

- (i) inadequacy of the existing laws in relation to the problems for which they are prescribed;
- (ii) absence of legislation on new areas; for instance, air and noise pollution, and waste management;
- (iii) failure to promote a conservation objective within the existing provisions;
- (iv) absence of enabling legislation;

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- (v) failure to adequately take account of new developments in the environmental area;
- (vi) the shortcomings in our present system of environmental administration.

For example, there are a number of agencies currently involved in some aspects of environmental management as follows:

Ministry of Agriculture, Land and Marine Resources:

- Management of fisheries, wildlife and forest resources.
- Protection of habitat.
- Advice to farmers on the use of pesticides.
- Management of national parks.

Ministry of Energy and Energy Industries:

- Monitoring and regulating oil and gas extraction and quarrying activities.
- Overseeing energy practices with respect to the avoidance and clean-up of oil spills.

Ministry of Health:

- Enforcement of Public Health Regulations.
- Conducting insect pest control activity.
- Surveillance of working environment from occupational health and safety standpoint.

Ministry of Works and Transport:

- Drainage and Irrigation.

Water and Sewerage Authority:

- Treatment of the water supply to maintain water quality standards.
- Waste water disposal.

Ministry of Planning and Development:

- Land use planning.
- Administering the requirement of EIA's.

Environmental policy development and cross-sectoral co-ordination.

Integration of environmental considerations in public sector investment planning.

Institute of Marine Affairs:

of studies of coastal regions. Advising on optimal use of marine environments.

Generation of technical information for EIA's.

Conducting

Ministry of Local Government:

Management of landfills; provision of transport for non-hazardous waste.

Solid Waste Management Company:

Management of the collection, handling, treatment and disposal of solid wastes.

Mr. President, not only are there a series of agencies involved in environmental management but there is a complex of existing legislation which bears on environmental management. To give hon. Senators an idea, I shall list a few. They are:

Public Health Act, Chap. 12:04

Forests Act, Chap. 66:01

Conservation of Wild life Act, Chap. 67:01

Fisheries Act, Chap. 67:51

Water and Sewerage Authority Act, Chap. 54:40

Waterworks Act, Chap. 54:41

Highways Act, Chap. 48:01

Pesticide and Toxic Chemicals Act and Regulations, No. 42 of 1979

Institute of Marine Affairs Act, Chap. 37:01

Litter Act, Chap. 30:52

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Advertisements Act, Chap. 35:53

Dry River Works Act, Chap. 26:50

Town and Country Planning Act, Chap. 35:01

Marine Areas Act, 37:02

Mines, Minerals and Quarries Act, Chap. 61:01

Petroleum Act, Chap. 62:01

Oil Pollution Act, Chap. 37:03

County Councils Act, Chap. 25:04

Acts relating to the Port of Spain, San Fernando, Arima and Point Fortin Corporations.

This listing is not exhaustive.

In reviewing and assessing the existing legal, regulatory and institutional framework, the Ministry has tapped expertise widely. Through the assistance of the World Bank Technical Assistance Loan, a consultant was engaged in 1992 to prepare a policy brief for the establishment of the Environmental Management Authority. The Government is also grateful to the Inter-American Development Bank which financed two experts in 1993 to undertake an assessment of the technical needs for the development of the Environmental Management Authority. I am pleased to state that these consultants were all citizens of Trinidad and Tobago, and their selection is indicative of the Government's desire to engage experts who, as far as possible, are knowledgeable about local customs, practices and laws.

Another Caribbean consultant was engaged through the WHO/PAHO to investigate the establishment of a Round-Table on Environment and Development and to make other recommendations related to the establishment of an Environment Management Authority.

The United Nations Environmental Programme (UNEP) launched a mission in 1992 to review existing environmental legislation and the mission recommended the enactment of comprehensive framework legislation such as the one now being proposed. UNEP, together with UNDP, also assisted in the provision of an international legal consultant highly experienced in environmental law and regulatory practices, in collaboration with a technical team from the Chief

Parliamentary Counsel's Office and the Ministry of Planning and Development, to draft the Environmental Management Bill.

The Government has also been very conscious of the need to allow for wide and meaningful participation of the national community in the process of evolving the proposed new legislation. The Bill was published for public comment during August/September 1994. There was strong public interest and the responses were generally constructive and incisive. Respondents included companies in the private sector, state enterprises, trade unions, the University of the West Indies and other regional institutions, non-governmental organizations, environmental groups, government ministries and agencies, individuals, and even parliamentarians. Comments were also forthcoming from UNDP, UNEP, PAHO/WHO, the World Bank and the Inter-American Development Bank.

Over the period September 26 to October 19, 1994, consultations were carried out in groups with a wide cross-section of government agencies and officials, environmental organizations, the industrial and business community, and so forth.

Following consideration of the various comments received, several amendments were made to the draft legislation. The Government is confident that the Bill presented to Parliament today will serve the interest of Trinidad and Tobago well in relation to shared national environmental management objectives.

**1.50 p.m.**

This Bill seeks to establish three mechanisms to serve as the core for the new system of environmental management that is envisaged. These innovations are:

- (a) an Environmental Management Authority;
- (b) an Environmental Trust Fund to ensure the financial resources are made available; and
- (c) an Environmental Commission to deal with effective implementation and enforcement.

The proposed Environmental Management Authority is the key instrument which will be relied upon to improve the effectiveness of environmental management in this country and to improve system-wide co-ordination, accomplish rationalization and, most important, to promote public awareness and responsible individual and corporate practices.

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The EMA is being established as a regulatory, co-ordinating and management agency. The broad functions of the authority are set out in clause 16(1). Simply stated, the EMA shall be empowered to co-ordinate environmental management activities; make recommendations for the formulation of a national environmental policy; establish environmental standards; monitor compliance with such standards; enforce environmental legislation; rationalize the myriad environmental institutions; consolidate; and codify the 37 environmental laws; prevent and control pollution; formulate educational and public awareness programmes; and establish institutional linkages locally, regionally and internationally.

We want an EMA that is not a "toothless tiger", or should I say, "toothless bulldog". [*Interruption*] Thus at clause 26(2) the enabling legislation will give the authority adequate powers to be an effective instrument for the promotion of sound environmental practices. The specific powers, for example, include, the ability:

- (a) to establish procedures for the registration of sources from which pollutants may be released into the environment and the characterization of these sources;
- (b) to specify the quantity, condition or concentration of pollutants or substances containing pollutants which may be released into the environment;
- (c) to set out procedures and standards with respect to permits or licences required for a person to install or operate any process or other source from which pollutants may be released into the environment;
- (d) to establish procedures and standards for the formal designation and protection of "environmentally sensitive areas" or "environmentally sensitive species";
- (e) to introduce incentive programmes or mechanisms which encourage the use of effective environmental systems and the achievement of improvements in environmental quality;
- (f) by incentives to change the behaviour of people and companies in the field of environment;
- (g) to designate hazardous substances or categories of hazardous substances, and the performance standards, procedures, safeguards

and licensing or permitting requirements in accordance with which such hazardous substances shall be handled;

- (h) to establish procedures to be followed by anyone required to apply for a certificate of environmental clearance and the standards for preparation and submission of environmental impact assessment;
- (i) to define various categories of waste and the requirements with respect to the handling and disposal of such waste, as well as license facilities at which such wastes are to be handled or disposed;
- (j) to establish procedures and standards for the monitoring of pollutant releases from any process, activity, vehicle or premises;
- (k) to declare ambient environmental quality criteria and standards; and
- (l) to approve the design, construction, operation, maintenance and monitoring of facilities or processes for the control of pollution and the handling of wastes.

At the same time, Mr. President, I want to draw the attention of hon. Senators to the fact that the legislation at clause 16(2) provides that the authority—

"...shall facilitate co-operation among persons and manage the environment in a manner which fosters participation and promotes consensus, including the encouragement and use of appropriate means to avoid or expeditiously resolve disputes through mechanisms for alternative dispute resolution."

This reflects our conviction that the authority must not be unduly confrontational or anti-developmental and that it should seek to engender co-operation, promote awareness and encourage voluntary compliance as key strategies in the pursuit of national environmental management objectives.

The authority will be afforded a considerable degree of operating autonomy. It will be set up as a statutory body, governed by an 11-person Board of Directors appointed by the President of the Republic on the advice of the Cabinet. The board will be accountable to the Minister responsible for environmental matters who will give general policy directions to the authority. The composition of the board will be multi-disciplinary and members will be drawn from a wide cross-section of disciplines and groups, including: environmental management, ecology, environmental health, engineering, labour, community-based organizations, business,

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economics, public administration, law, and non-governmental organizations. The authority will also be permitted to set up committees, working groups or advisory councils to assist in carrying out its functions. It is by this means and these devices that it will allow for wide involvement and mobilization of the entire community.

As mentioned earlier, the new legislation also establishes an Environmental Trust Fund. We intend to use this mechanism to fund the operations of the EMA. Appropriations budgeted annually and approved by Parliament will be transferred to the trust fund to help defray the operating and capital expenses of the authority. These resources will be augmented by collections by way of payments for services rendered by the authority, fees for permits, licences, and so forth. Also going into the trust fund will be resources mobilized from multi-lateral and bilateral donors, international foundations, the domestic private sector, and so forth. Clause 72 enumerates several specific ways in which the resources of the trust fund, in addition to defraying the operating and capital expenses, will be used to promote national environmental management objectives. They include:

- "(a) incentive measures for reducing environmental pollution, protecting the environment and conserving natural resources;
- (b) demonstration projects of innovative technologies which reduce pollution, or which reduce or eliminate the use of hazardous substances or the generation of wastes;
- (c) emergency response activities to address actual or potential threats to human health or the environment, including remediation or restoration of environmentally degraded sites; containment of any wastes, hazardous substances or other environmentally dangerous conditions, or other appropriate precautionary measures to prevent significant adverse effects on human health and the environment; and
- "(d) public awareness and education programmes,..."

which are most important. The success of this authority and our ability to manage our environment properly hinges on public awareness and education. So it will engage in:

- (d) public awareness and education programmes to enhance the understanding of the environmental protection and natural resources management issues within Trinidad and Tobago."

**2.00 p.m.**

The trust fund will be managed by five trustees drawn from the Board of Directors of the Authority.

Under clause 77(1), the authority may borrow funds to finance its functions or for meeting its obligations, but such borrowing will require the approval of the Minister of Finance. The authority may not pledge its assets as security for any loan without the approval of the minister responsible for the environment.

The Government is determined that the Environmental Management Authority and related mechanisms envisaged under this legislation to secure enhanced environmental management are adequately supported with needed resources. Thus, in addition to the Environmental Trust Fund and parallel with the activities of development of this legislation, we have sought to mobilize financial support from a variety of resources—both grants and loan financing. From UNDP Capacity 21 facility, we have received the sum of US \$150,000 to prepare a management action plan, to lay the ground for the establishment of the EMA, promoting public awareness and other activities. In addition, a grant of US \$800,000, or roughly TT \$5 million, has been approved by the UNDP for the provision of technical advisory services and the procurement of equipment.

We are also in the process of finalizing a loan agreement with the World Bank for US \$5.75 million, or approximately TT \$35 million, to permit implementation of changes in the legal, regulatory and institutional framework. The main elements of this project are:

- (i) to assist in building institutional capacity in Trinidad and Tobago to support the effective implementation of new environmental management legislation; the one we are debating today;
- (ii) to facilitate the establishment of the proposed Environmental Management Authority through the provision of resources for equipment and other start-up costs, access to specialized expertise, human resource development and initial operating expenses;
- (iii) to define a National Environmental Action Plan for Trinidad and Tobago and indirectly to identify the elements of a priority work programme for the EMA; and
- (iv) to carry out several technical studies which are required to establish a sound platform for national environmental management.

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The fact is, Mr. President, in addition to the resources provided by the Government in the 1995 Budget, we have already mobilized over TT \$40 million for the EMA.

The legislation at clause 18 specifically requires the authority to prepare recommendations for a comprehensive National Environmental Policy (NEP). The authority's recommendations must be based on an analysis of the prevailing state of the environment, targeted environmental quality norms, ecological and other balances required to conserve natural resources, to protect the environment and consideration of areas of the environment requiring special protection. It is obligatory for the authority to complete its initial recommendations not later than two years after the Bill takes effect. This National Environmental Policy must also include:

- (a) provisions to encourage the establishment of institutional linkages locally, regionally and internationally to further the objectives of the Bill;
- (b) analyses of factors impacting upon the development and successful implementation of national environmental policy; and
- (c) a programme for promoting the policy and building national commitment in this area.

For this exercise, provision is made in the Bill to facilitate public comment on the policy proposals.

The Bill also provides at clause 19 for the authority to undertake the consolidation, rationalization and modernization, after a comprehensive evaluation, of existing laws and programmes.

In order to facilitate the expeditious adjudication of matters arising from the decisions and actions of the authority in the exercise of its functions under the Bill, the legislation provides for the establishment of an Environmental Commission which shall be a superior court of record. The Commission shall be constituted of a full-time Chairman and five other members who need not be appointed to serve on a full-time basis. Clause 82(2) provides that the Chairman and Deputy Chairman:

"...shall each be an attorney-at-law of not less than ten years standing,"  
and the other members at clause 82(3):

"...shall be appointed by the President from among such persons ... qualified by virtue of their knowledge of or experience in environmental issues, engineering, the natural sciences, or the social sciences."

It is not the intention to place a large superstructure in the initial stages in respect of this Commission. So there is a full-time Chairman, the rest will be on a part-time basis as and when needed as the process continues.

As set out at section 81(5):

"The Commission shall have jurisdiction to hear and determine—

(a) appeals from decisions or actions of the Authority as specifically authorized under this Act;"

The authority takes a decision or action, the Commission will hear appeals for those decisions.

"(b) appeals of any rules being made by the Authority under section 26;

(c) applications by the Authority for the enforcement of any Consent Agreement or any final Administrative Order,"

We have placed within the frame-work of the Bill an appeal system and a review system of the actions of the authority undertaken under its powers.

Mr. President, specific mention ought to be made of several mechanisms in the Bill which are intended to enhance the overall effectiveness of the national environmental management regime proposed. These include:

- (1) empowerment of the authority to issue an Administrative Order requiring a person to immediately cease and desist from a violation or to come into compliance by a specific date (clause 65);
- (2) empowerment of the authority to issue an Administrative Order directing a person to immediately remedy environmental conditions or damages to the environment arising out of a violation (clause 65);
- (3) provision for direct private party actions (clause 69);
- (4) provision for the authority to require permits for waste disposal activities and operation of any waste handling facilities (clause 57);

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- (5) provision for the authority to require permits for any process releasing water pollutants—subject to conditions governing design, construction, operation, maintenance (clause 53);
- (6) provision for the authority to require certificates of environmental clearance (clause 35);
- (7) provision for the authority to develop, promote and implement incentive programmes which encourage voluntary use of effective environmental management systems (clause 34); and
- (8) provision for the authority to have powers of entry and inspection (clause 22).

Mr. President, it is our concept of the EMA that it will be a lean organization with a core of people and it will use the instrument of delegation to enhance the effectiveness of existing agencies involved in environmental management. Through delegation, these agencies will be permitted to exercise some of the powers of the authority in furtherance of the objectives of the legislation. Thus, the authority will be required, within three months of the Bill coming into effect, to initiate consultation with these agencies to establish mechanisms for co-ordination, implementation of integrated environmental management programmes, the drawing up of memoranda of understanding, and the designation of environmental officers.

**2.10 p.m.**

The Bill before this House is the final product of a systematic and structured process for the development of environmental legislation. We identified the problems; we brought to bear the best expertise available, drawing on both the ministries and international consultants, to develop a policy brief which was adopted by Cabinet in July, 1993.

That brief was translated into a draft bill in what I would like to describe as relatively simple language. I am sure hon. Senators will agree that the Bill makes for easy reading.

This Bill has benefited from the widest possible consultations and the views of all stakeholders and interested parties have been given due considerations. We have sought to balance the sometimes conflicting positions and to provide legislation which balances the legitimate concerns for the protection of the

environment with the need for economic growth, job creation and sustainable development.

This Bill, Mr. President, is Trinidad and Tobago driven. It is not a copy of some other country's legislation. It is, in fact, pioneering legislation in this area and I wish to pay tribute to the technical staff of my Ministry, the CPC's Office, and the consultants provided by the UNDP and UNEP for their hard work and commitment to this project.

My conversations with international agencies clearly show that this Bill will serve as a model to other countries pursuing the development of comprehensive legislation for the protection and management of the environment.

Mr. President, it is with a sense of great pride that I commend this Bill to this honourable Senate.

I beg to move.

**Sen. Prof. Spence:** Mr. President, I wonder if the hon. Minister would be so good as to amplify a little on environmentally sensitive areas and species. If he does not want to do it now, perhaps he can ask one of his colleagues to do so, because I think this is a very important area and it is not quite clear to me from the Bill just what is intended.

**Sen. Dr. The Hon. L. Saith:** I will take note of it and respond.

**Sen. Daly:** Mr. President, with your leave I might not be so patient. Could the Minister indicate what is the status of the court order in the Nariva Swamp matter and where in here will such an order in the future be enforced?

**Sen. Dr. The Hon. L. Saith:** Mr. President, I hate to cross swords with a lawyer, but my understanding is that if the authority designates the Nariva Swamp as an environmentally sensitive area, then this Bill now gives the authority the power to issue an administrative order immediately under its act to vacate. If it is not complied with, the authority does not have to go to the magistrates' court. It can issue a fine and it can do all that is necessary to remove it, and have the Environmental Commission deal with any appeal. I think what this Bill is seeking to do is to deal with it in that way, but I am subject to legal corrections.

**Sen. Rooks:** Mr. President, why is there no tax relief for donors to the trust? I would think that would make the donations easier to get.

**Sen. Dr. The Hon. L. Saith:** The Bill sets up the trust fund, in setting the regulations and in dealing with some of these things. These things can be done

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administratively. To give tax relief, we would need to amend tax legislation, not this legislation. But I am sure that as we proceed with the legislation and with the implementation, a number of things will happen.

**Sen. Hosein:** I understand that with Sen. Draper's performance in Haiti, he is booked to sing at the new balisier calypso tent. I hear he will be singing his new hit song: "How to squander taxpayer's money." So those of us who did not make the trip to Haiti can get a chance to hear the whole cast in action.

**Hon. Senator:** The Bill!

**Sen. Dr. The Hon. L. Saith:** Mr. President, God gave many gifts to man; the gift of sight, speech, hearing, smell, taste and so forth, but the best gift of all is a pure, life-sustaining environment. Over the ages and moreso in recent times, man, in his quest for progress and development, has so polluted the environment that today he is threatened with choking to death in his own waste.

That is the harsh reality facing us today. I ask the question: Can man save himself from apparent destruction? Yes, I believe he can. But who will do it? Some say we are a selfish people concerned only with our personal interest. I disagree. In every country there are selfless, loving people willing to sacrifice their time and their interests to save us from ourselves.

We are indeed fortunate to have in the Parliament today executive members of COPE, the Council of Presidents of the Environment, a group of citizens of the type I just described. I wish to pay public tribute to the work they are doing.

We are also very blest to have in Trinidad and Tobago at this time, members of Greenpeace, the famous International Environmental Protection Non-Governmental Organization, who are here to lobby the Government and our citizens against the use of our waters for the shipping of nuclear waste. I also wish to pay tribute to them for the great humanitarian work they are doing.

I want to make the point again, that this is, in my view, pioneering legislation. There have been many judgment calls that one has had to make on the differing opinions that have come and I am sure that not all of them are correct. We do not even know how some of them would work out. I foresee that during the course of the years to come, adjustments being made to the Act as experiences dictate, and changes are necessary. What we have before us is, I believe, a good start to the process of environmental management. I emphasize, it is the start. This is not the end of the process. We have now started the process.

**Sen. Mansoor:** Mr. President, through you, another question. Will the authority be able to make and enforce rules prior to three years when their environmental code is supposed to be set up?

**Sen. Dr. The Hon. L. Saith:** My understanding is, yes.

**Mr. President:** According to the rules, question time can be extended up to 45 minutes after the commencement of the sitting. Do not let the informalities of the proceedings be taken as any precedent.

*Question proposed.*

**Sen. Muntaz Hosein:** Mr. President, before I start my contribution on this historic debate, may I welcome you back to this honourable Senate from your Christmas holidays. I hope you had a peaceful and joyous season with your family, and similarly, all Senators, especially our new calypsonian ministers who are back in time for the carnival season. I am very sorry that Ministers Maraj and Saith did not get picked for the Haiti fete, but I understand that they are saving them for the Phagwa band to come in 1995.

**Mr. President:** Senator, you might be polluting the environment of the Parliament. [*Laughter*]

**2.20 p.m.**

**Sen. M. Hosein:** I am also very pleased to see our media playing a big role in bringing to our attention the dangers of nuclear waste. I congratulate them all.

Mr. President, with your permission, I would like to read one editorial which I believe sums up the situation very well. I quote from the *Daily Express* of Thursday, December 22, 1994, headlined "Nuclear threat to our waters":

"We are grateful to Greenpeace the international environmental protection non-governmental organization for once again informing Caribbean states of the possibility that France might attempt to sneak shipments of nuclear waste through the region."

It continues:

"This is the second time in recent years a ship loaded with the deadly poison plutonium is known to be leaving France for Japan. Since 1976, over 74 such shipments have been sent, but the last time was at the end of 1992, when the *Akatsuki Maru* carried 1.7 tonnes of plutonium from France, setting off on a secret route to Japan.

Despite vociferous protests by the Caribbean Conservation Association and other concerned organisations, however, the Government of Trinidad and Tobago's initial response was toothless and inadequate 'expressions of concern' (sic) by Foreign Affairs Minister Ralph Maraj. The Minister merely stated that the ship was not likely to come within the Trinidad and Tobago's 12-mile territorial waters."

It continues:

"But this is serious business, and Trinidad and Tobago must not allow itself to be bullied by the rich nations into accepting so great a risk. Plutonium, which is used as fuel for nuclear reactors and nuclear bombs, is one of the most long-lived radiotoxic elements. Land polluted with plutonium would be uninhabitable for thousands of years. A single microgramme of plutonium, smaller than a speck of dust, would cause cancer if inhaled. A spill of 50 kilogrammes in the Caribbean Sea would require, for instance, the evacuation of the whole Eastern Caribbean.

No matter what precautions have been taken, there is always the chance of an accident at sea. The fact is that even a very slim possibility is still too great a risk, given the horrible consequences which would follow a spill. It was such considerations which prompted the joint Caricom resolution tabled at the United Nations rejecting all shipments of plutonium and other hazardous materials traversing the Caribbean Sea and all testing of nuclear devices in the region.

Clearly, that resolution now needs to be reaffirmed, and the Government of Trinidad and Tobago must take the lead and encourage other Caricom states to join in, because it is collectively that these small states carry more weight. Since the collapse of the Eastern bloc and the rise of a unipolar world, small, poor states have lost considerable influence in world affairs: it's a different ball game now. But in all our haste to make friends with the rich and powerful, there must be no compromise on matters such as this, which involves the physical survival of Caribbean peoples."

Mr. President, it seems that the Government, through our Minister of Foreign Affairs, got the message. Listen to his response. I quote from the *Trinidad Guardian* of January 7, 1995:

"Maraj said yesterday: 'We're going to make loud and vociferous noises about this nuclear waste vessel. We intend to clamour very loudly against the proposed shipment. We don't want this in the Caribbean at all.'"

Let me advise the Minister, through you, Mr. President, that noise alone would not be sufficient. He must take a proactive role and initiate collective action with our Caribbean partners. In this regard, the alternative government stands firmly with the Government to give support to any meaningful action to stem the tide of this menace and threat to our very existence.

During the last 50 years, we have witnessed the birth and maturation of a dynamic global environment-friendly campaign to sensitize the peoples of the world in the pursuit of protecting the environment and stemming the tide of environmental degradation which constitutes a threat to all forms of life on earth.

A rise in global temperatures, depletion of the ozone layer, acidity of the physical environment and the pollution of air, soil and water are some of the critical concerns of environmentalists worldwide. In developing countries, such as Trinidad and Tobago, environmental degradation is inextricably linked to poverty, under-development, demographic patterns and pressures including increases in the population and internal migration, all of which are intensified by a lopsided and hollow socio-economic policy, irresponsible industrial companies and governmental inefficiencies.

A most recent study by ECLAC shows that five per cent of the population of Trinidad and Tobago was under the poverty line in 1980. From 1990 to date, 18 per cent or 200,000 of our citizens now live under the poverty line. The key to protecting the environment is proper environmental management, and charting a course towards sustainable development. Environmental management is a strategy by which human activities that effect the environment are organized with a view to maximizing social well-being, to preventing and mitigating potential problems, by addressing their root causes. Appropriate environmental management is achieved when resources are used efficiently for the benefit of human development and when they are conserved because of their important ecological role in sustaining ecosystems.

It is imperative that policy-makers view and treat with environmental issues in a holistic manner. These issues must be examined in conjunction with the process of development, taking into consideration the crucial importance of maintaining a proper equilibrium between economic development and population growth, the

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rational use of natural resources and environmental protection and conservation. Indeed, national environmental policies are only successful when they relate to and support national, socio-economic goals.

Environmental policies designed in isolation of national goals are difficult to implement and, according to the United Nations Environmental Programme, frequently fail. In fact, the Environmental Management Authority, which the Bill seeks to establish is merely one dimension of any programme to achieve sustainable development. Environmental management is inherently multi-sectoral and must be incorporated explicitly into sectoral and problematic planning in energy, industry, tourism, agriculture, health, education and so forth.

In Trinidad and Tobago, the issues of environmental management, which must be addressed, are derived, in part, from structural problems in the country and strategies envisaged for future development. At the national level, the major issues pertain to land use, pollution, solid waste management and environmental standards.

Water pollution: According to many experts and studies done on our rivers and water sources, persistent organic pollutants in the form of pesticides and manufacturing and industrial chemicals have been recovered from water sources and animal tissues. Forty-two traces of organic contaminants were identified in the Caroni River water samples collected in 1982/1983—upstream of a major domestic water-supply intake.

**2.30 p.m.**

"Pesticides, polyaromatic, hydrocarbon, ali-phatic hydrocarbons, phenals and phathate were the main groups of compound found"

Mercury content of the Caroni Swamp is known to be 200 times greater than the maximum safe level. It is imperative that all users be taught how and when to use pesticides; how to dispose of used pesticide containers and expired pesticides, since those are dangerous when they get past their useful life, and more degradable such as DDT and Myrex.

Organic and industrial waste from industrial activity: Organic biodegradable waste is produced in vast quantities from the sugar refineries at Brechin Castle and Ste. Madeleine. Both are situated near river mouths, cause polluted conditions downstream and around estuaries of the Couva and Cipero Rivers respectively. The two major distilleries and two breweries also discharge waste that flow into

the Caroni River. A variety of meat, drink and food processing companies, according to Dr. Suing Chang, after some primary treatment, also discharge waste into the Caroni River and its tributaries. With the addition of domestic and agricultural organic waste, the Caroni and Couva Rivers are contaminated with biodegradable organic waste.

Dissolved oxygen levels fall to zero below discharge points, and mortality of fish and other aquatic life is very common, especially in the dry season when water flow is low and waste discharge levels are at their highest. Sewerage from inadequately maintained plants—approximately 23 per cent of the population is served by central sewerage treatment systems which exist in Port of Spain, San Fernando and Arima. Large housing estates and schools are served by packaged treatment plants. To date there are approximately 160 in Trinidad and 16 in Tobago.

According to Dr. A. Suing Chang, in her paper entitled, *Environmental Assessment of Marine Pollution and Coastline Degradation*, the majority of package plants are not maintained and most of the waste simply flows into rivers, streams and the sea. This problem is compounded by waste from pig, poultry and other animal farms where there is little or no treatment of waste. Abattoirs also wash the remains of the activities down drains and streams. The natural result is highly polluted watercourses and pollution of several recreational beaches.

According to the *Short-term Preparedness Plan for Water and Waste-water, Trinidad and Tobago, January to June 1992* devised by PAHO and World Health Organization, it stated:

"The highest priority should be given to ensuring that adequate and safe supplies of water are available and the collection, treatment and disposal of human waste is satisfactorily performed. Sewerage is the main source of contamination and outbreaks of cholera are always associated with unsafe water supply and unsatisfactory waste disposal methods and installations."

Organic matter in rivers: Organic matter is made up of compounds of carbon, hydrogen, oxygen, and smaller amounts of other elements, and is derived from living organisms. Organic matter may pollute the matter by using up oxygen which is essential for life and by the production of toxic hydrogen sulphide through decomposition in the absence of oxygen. Water polluted with organic matter appears dark in colour and often emits the rotten egg odour of hydrogen

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sulphide. Organic pollution may come from sewerage, wastes discharged from food processing plants, sugar refineries and rum and beer distilleries.

**Sen. Huggins:** Are you supporting the Bill?

**Sen. M. Hosein:** You would find out soon enough.

Let me quote from the *Sunday Guardian* dated March 25, 1994. Page 16 states:

"Caroni River an open sewer.

By December 1985, an article in that month's issue of the Naturalist's magazine dedicated entirely to the Caroni River, reports (in 'Caroni River An Open Sewer') that since that time, not only have the residential and urban populations exceeded the projections of the Bladgen Commission, but up to that time—apart from Lockjoint—no sewerage contracts had been awarded, nor any major sewerage work been done. There have been some small sewerage plants set up along the river, by the residential or industrial contractors, but most of them have been abandoned, or simply do not work.

And a boat ride down the Caroni (in early February this year) reveals just how literally that statement, that the river be treated as an open drain, was taken. In low tide there are mounds of plastic bottles and other domestic waste; everything from tin cans to disposable diapers is in the river, and there are even remnants of old Carnival costumes.

During high tide, reports environmentalist Gupte Lutchmedial, the situation is much worse. The river is thick with bottles and boats have to clear a way through. But there is a more dangerous form of pollution which is not always visible; liquid effluent, allegedly from the various industries along the river and what looks and smells like raw sewage from WASA's Beetham treatment ponds.

On the river in a boat, directly behind the treatment plant, there is a visible division in the colour of the water, an alga-green being slowly encroached upon by a sickly brown. The brown liquid flows heavily from a pipe along the bank of the river, which leads out of the WASA sewerage treatment plant in Beetham."

I have had the privilege of going down the river in one of those boats and I could attest to the authenticity of that report. I saw all of these things. I wondered whether it would not be a good idea for the Minister in charge to go to see for himself. Without awareness, there can be no consensus to make correction.

I now move to oil pollution. The waters around Trinidad and Tobago have been classified as a high risk zone for oil pollution. The major risks arising in marine areas are due to accidents involving producing wells and submarine pipelines. In addition, the country's proximity to a major tanker route also exacerbates the risk of accidents.

The effects of oil pollution on the marine biota in Trinidad and Tobago have not been fully investigated, according to the National Report on the Environment. Available data indicate that beach organisms on the east have been killed by the high concentration of oil. Oil spills impair manna and bird life, it affects flora and fauna and seriously hamper the fishing and shrimping industries, as well as the tourism industry.

In another related problem of the oil industry at Petrotrin, there is the presence of acid rain which must be handled very urgently. I appeal to the Minister to look into this matter as early as possible.

Another related issue pertains to the disposal of used engine oil or waste oil. It must be noted that used engine oil was not one of the items listed in the Litter Act, because, unlike other litter, it cannot be seen as it soaks into the ground, and seeps down to streams and rivers, thus polluting waterways and water supply. There are no penalties, no laws or regulations governing the disposal of this hazardous waste, or agency, or authority established to dispose of it in a safe way. This is one area which requires very close attention.

I now move to toxic and hazardous waste disposal. At present there are no facilities in Trinidad and Tobago for the disposal of toxic and hazardous waste. The process of industrialization has resulted in the production of waste that may be toxic in varying degrees to some species of flora and fauna. In fact, according to Mr. Ralph Maraj, Minister of Foreign Affairs, "there are more than 800 industrial locations which generate hazardous and toxic waste in the country".

#### **2.40 p.m.**

In developing countries, the disposal of harmful bi-products of industrial activity is normally by way of dumping the undesirable effluent in the nearest

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waterway or stream and/or storage of these toxic wastes in the hope that future technological developments would provide a means of disposal. I ask the Minister: What processes are in place for industrial waste disposal in Trinidad and Tobago?

I now move to the dangers of asbestos. Asbestos is a natural mineral which occurs in different types of rocks in various countries all over the world. The rocks are crushed to a fine powder and treated with chemicals before being sold as sheeting or in powder form. The developed world, including the United States and the United Kingdom, have banned the imports of asbestos and the manufacture and use of any article made with asbestos.

Asbestos has long, thin fibres which break away easily and are released into the air we breathe. The nature of the fibres prevents our bodies' defences from neutralizing it, so that we do not cough it out of our lungs, and it forms nodules, which is the first symptom of asbestosis, which eventually leads to lung cancer.

Trinidad and Tobago still imports asbestos, which is used in the manufacture of brake pads and some paints. This country has no laws prohibiting the importation and use of asbestos; no laws to protect workers in industries which use asbestos; no laws regulating the disposal of asbestos products, so that even though the Minister is removing asbestos roofing from schools, the question is: Where is it disposed?

Petrotrin continues to use asbestos as laggings for pipe, and the Minister ought to look into this as a matter of urgency.

I am anxiously awaiting the Government Bill to bring relief to persons suffering as a result of second-hand smoke caused by tobacco smoking in public places.

I now turn to lead pollution. Lead is a metallic chemical element used in the plates of electrical storage batteries, soldering alloy and as a compound in gasoline. It is also used as sheeting on electrical cables, lining for storage tanks and as a radiation shield for X-ray equipment. Compounds of lead are used in the manufacture of dyes, paints, glassware, gasoline and insecticides.

Lead poisoning can result in weight loss, colic, abdominal pains, headaches, vomiting and blindness. Members should note that lead in any form is poisonous. It can enter the body through breathing in fumes, mist, dust or vapour containing lead or through the skin. Lead has its greatest effect on children, whose nervous systems are in the process of development. Lead is a cumulative poison which

collects in soft tissues such as the brain, kidney, liver and bone marrow, bones and teeth. Anaemia is another symptom. Lead inhibits the formation of haemoglobin for the red blood cells, which distributes oxygen through the body. Miscarriages and still births are common among women working in lead trades. The placenta does not act as a barrier to lead, so that foetal development can be hampered.

In such a scenario, it is difficult to comprehend the Government's complacent manner in dealing with the problem of lead poisoning at Demerara Road, Wallerfield, which resulted in 21 youngsters being hospitalized. It was discovered that lead concentration in the soil sample ranged from 0.1 per cent to 42 per cent, which was far above the US Environmental Protection Agency limit of 0.25 per cent. Furthermore, the Cabinet-appointed task force which later investigated the lead poisoning at Demerara Road, expressed serious concern over possible contamination of the Guanapo and Arima Rivers from surface run-off of lead contaminated water from Demerara Road.

It should be noted that the Piarco Treatment Plant and the Caroni-Arena Water Treatment Plant, which supply over 40 per cent of the potable water in Trinidad, is fed by these rivers. According to the report, water treatment is unlikely to remove all lead in the water, hence the entire population can ultimately be at risk. The report termed the site a disaster area and recommended immediate evacuation. However, residents of Demerara Road are still there.

According to Richard Warner, a senior engineer at the Solid Waste Management Company Limited of Trinidad and Tobago, speaking at an ECA Seminar, I quote:

"There appears to be rampant improper handling, storage and transport of lead contained wastes. Several areas of vacant land throughout the country, have been identified as dumping grounds for lead-contaminated wastes. These wastes are deposited without any steps being taken to minimise their threat to human health and the environment."

Another area which requires attention pertains to the emission of motor vehicles. A pilot investigation into motor vehicles' air pollution in Trinidad, conducted in 1972, showed that at major traffic intersections, carbon monoxide concentrations exceeded the acceptable levels stipulated by World Health Organization standards. Lead is added to gasoline in Trinidad and Tobago to improve its octane rating.

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According to the Ministry of Energy and Energy Industries, this country consumes an average of 210 thousand barrels of leaded gas every month, which automatically translates into a heavy emission of lead fumes into the air, which gets into the food chain affecting animals and humans. The Life Science Department at UWI recently studied the effects of lead contamination on dairy cattle and their milk. It was found that the blood and milk contained low levels of lead.

Are you standing on a point of order? According to Dr. Hamid Farabi, lecturer in the Faculty of Engineering, research done by one of his students in 1992 revealed that there is a high level of lead in the dust around the Savannah.

**Sen. Robinson-Regis:** Yes. That is why I am standing.

The reason for bringing this Bill before the Senate today was to deal with the situation which is being described by Sen. Hosein. The point I would like to seek your ruling on is the fact that Sen. Hosein has not addressed the Bill. I am of the opinion that the Bill is what we have come to debate. I seek your ruling.

**Mr. President:** Are you saying that he is being irrelevant?

**Sen. Robinson-Regis:** Yes.

**Mr. President:** The Bill is a wide-ranging one and Sen. Hosein is dealing extensively with the pollution aspect and is going into many things. You will remember that the Leader of Government Business in the Senate said that there were several laws which all relate to the question of the management of the environment. Sen. Hosein is not dealing specifically with the provisions in the Bill to manage it, but the other laws that gave the need for this Bill. In a way we have to accept what he is saying as a factor pertinent to the Bill.

**Sen. Robinson-Regis:** I thank you for your explanation.

**Sen. M. Hosein:** Mr. President, I seek your guidance with respect to injury time.

A pilot investigation into motor vehicles' air pollution in Trinidad, conducted in 1972, showed that at major traffic intersections, carbon monoxide concentrations exceeded acceptable levels stipulated by World Health Organization standards. Lead is added to gasolene in Trinidad and Tobago to improve its octane ratings.

**2.50 p.m.**

According to the Ministry of Energy, this country consumes an average of 210,000 barrels of leaded gas every month which automatically translates into a heavy emission of lead fumes into the air.

**Sen. Barnes:** Just for clarity, Mr. President, according to the Ministry of Energy and Energy Industries the country consumes 210,000 barrels of gasoline per month; that in fact was 1972. I do not think the Ministry of Energy and Energy Industries went on to the rest of the calculations.

**Sen. M. Hosein:** Thank you for your intervention.

This automatically translates into a heavy emission of lead fumes into the air—if you wait you would learn. This gets into the food chain affecting animals and humans. The Life Science Department at the University of the West Indies recently studied the effects of lead contamination on dairy cattle and their milk. It was found that the cattle's blood and milk contained low levels of lead.

**Mr. President:** Sen. Hosein, you already read that.

**Sen. M. Hosein:** I had to read it over because of the intervention, Sir.

**Mr. President:** No, you would be guilty of repetition.

**Sen. M. Hosein:** According to Dr. Hamid Farabi, lecturer in the Faculty of Engineering, a research conducted by one of his students in 1992 revealed that there is a high level of lead in the dust around the Queen's Park Savannah. Therefore, persons who jog or walk around the Queen's Park Savannah are at serious risk of contracting lead poisoning. It must be noted that the savannah is not the only source of lead poisoning but all busy junctions are targeted dangerous areas.

I suffer from this every single day because I live around the savannah and I can tell you that my family and I are seriously thinking about moving out.  
*[Interruption]*

A report on energy policy issued by the Ministry of Energy and Energy Industries in 1987 stated that:

"Independent private research has revealed relatively high levels of lead in the bloodstream of a sample of Trinidad and Tobago nationals."

The same report points out that premium gasoline in Trinidad and Tobago—

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"contains in the region of 2.58 to 3.22 grams per gallon of lead (TEL) which is higher than the average existing in the developed countries."

I want to call on the Government and the Minister responsible to stop using gasoline. We have an abundant supply of CNG in this country and I do not see why we cannot do research to develop larger tanks so that people can switch to cleaner, cheaper and healthier fuel, and we recommend that this be done. If that is not done by the Gentlemen opposite then we would do it.

The problems of fly ash and bagasse waste at Brechin Castle and Ste. Madeline sugar factories. Every crop time the residents of those areas suffer from an increase of asthma, fibrosis, bronchitis and some heart conditions. That matter requires immediate action. Government has been aware of the problem for a very long time, and instead of spending that money to go to Haiti, we ought to have used that money to alleviate the problem and the suffering of those people.

What legislation is required from Government to rectify these problems? Government owns Caroni (1975) Limited, so when the Minister tells us in this Senate that the pieces of legislation were inadequate to deal with environmental management, I cannot accept that. Caroni (1975) Limited is owned by the Government. The Government is aware of the problem, but no corrective action is being taken.

I make an impassioned appeal for those people. I want to recommend that Sen. Dr. Saith, when he is passing in his car, wind down the window, come out of his car and meet the people so that he would understand the problem. He needs to go back to the roots, Mr. President, so that he could understand what the problems are and deal with them. One does not need an environment management authority to deal with that problem; one does not need other legislation; the Government already has the power to do it. Instead, it took 150 people to have a fete in Haiti.

I now come to the Trinidad Cement Limited. I am certain, Mr. President, that if you pass along the Old Southern Main Road you cannot help observing the cement dust that comes from that factory, it pollutes the trees, the homes, the furniture, the people, their lungs. For those people who live in the city and never visit the area, I have brought here with me today one of the leaves from one of those trees to give an idea of what it looks like and the dangers.

*Leaf shown to the Senate.*

The cement dust came off the leaf while transporting it. That is the extent of one leaf, Mr. President, this is what the people suffer from every day of their lives

in that area. We do not need legislation for this! We do not need the EMA to do this! What we need is responsible government to do this. At one time the Government owned the Trinidad Cement Limited or part thereof. And they come to tell us in the Senate that the laws are insufficient to deal with problems and people have been suffering for donkey's years. That is the extent of it, Mr. President. *[Interruption] [Desk Thumping]* No Government action as usual, none!

The reason for finally bringing this Bill before Parliament is not so much this Government's concern for the environment, but its need to comply with the conditionalities of Loan No. 759/OC, signed in August, 1993. The second tranche of the loan was not to be forthcoming until the Bill had been placed before the legislature and the third tranche will be held back until the Environmental Management Agency is operating. So let us get that through our heads, Mr. President. It is not because of the benevolence of this Government that this Bill is here today, it is because of the conditionalities.

One has to look at the grandiose wording and pious hopes in the Preamble to this Bill with some skepticism, when it is recalled that this Government, after nearly three years, has failed to proclaim the National Trust Act, 1991, which was assented to on August 14, 1991. This Act requires the Government of the day to set up and maintain the National Trust, which is to have a council of elected and appointed members. The functions of the Trust are to list and acquire property of interest, preserve lands by retaining their natural features to carry out research and so forth.

It could be argued that if the Government were at all serious about preserving the nation's heritage, whether natural or man-made, they would have proclaimed this Act, set up the Trust and given it human and material resources with which to perform its functions.

I now move to China, a success story of a liberalized economy and the environment.

**3.00 p.m.**

**Mr. President:** Hon. Member, your speaking time has expired.

*Motion made,* That the hon. Senator speaking time be extended by 15 minutes.  
*[Sen. W. Mark]*

*Question put and agreed to.*

**Sen. M. Hosein:** Mr. President, I read from page 13 of the *Trinidad Guardian* dated Monday, January 09, 1995. It says:

"China most polluted:

China is choking on its own industrial waste, according to an official report released Saturday.

Half of the world's 10 most air-polluted cities are in China, the report said. Almost one-third of the country is afflicted with acid rain. And 50 per cent of the country's major rivers are contaminated, the official *China Daily* quoted National Environmental Protection Agency director, Xie Zhenhua, as saying.

Xie said the agency was considering battling the problem with taxes and fines.

China's phenomenal double-digit economic growth of recent years has come at the expense of the environment. All across the country, new factories are spewing pollutants into the air and water.

Enforcement of environmental laws and regulations is lax."

I read that so that the Members opposite and you, Mr. President, would be aware of what happens. Environmental laws have been enacted in China for the past 20 years and this is the result.

Mr. President, let us understand that multi-national corporations added incentive to set up business in Third World countries. The Third World countries are unable to fund the cost of implementation of environmental standards, plus the anxious desire to welcome investments give the corporations a cost advantage over their competitors at home, but the risk to workers' and residents' health and safety is costly. I say Government beware because it is moving in haste, too quickly for people to prepare. It is giving everything away and I am afraid that the same will happen with this Environmental Management Bill; and if we do not have the money, if we do not have the staff and we do not have the will, 'all fall down' and we will go the same route. So I warn the Government.

I am sorry that the IADB did not make implementation, transparency and accountability conditions for disbursements of further loans. It seems that that is the only way we can get results from my Friends on the opposite side, and if I had an input I would definitely advise the IADB to put those conditionalities on future loans.

Mr. President, let us look at the Government's record on implementation of existing legislation which impacts on the environment and you would see how funny it gets. The National Report on Environmental Problems of the Marine and Coastal Areas by the Institute of Marine Affairs in 1988 concluded—I will just read a few:

- (a) The Continental Shelf Act—Medium.
- (b) The Dry River Act—Low.
- (c) Public Health Act—Low.
- (d) Litter Act—Low.

Do not talk about the Litter Act. One could throw chicken-and-chips boxes on policemen's boots and they will not do anything about it. No enforcement whatsoever! You see, Mr. President, the Government's level of implementation and enforcement of 43 pieces of legislation—the Government's score was medium for 12 of them; low for 30; high for one—one only which is malaria abatement; very high—zero. We are being asked now to accept what they are saying; all the fancy words and all the fancy this and that which we have heard 155 times or more in and out of this Parliament, by this Government and the previous ones, and you know and I know that implementation is a word that has been erased completely from their dictionary.

Mr. President, the Bill before us is defective in many ways, and I will table several amendments later, but I will reserve my comments on the amendments to a later stage in the proceedings.

In conclusion, I am very concerned about the action to be taken before the rules and regulations are put in place and the EMA becomes fully operational. Although the Bill talks about three years, let us be realistic, probably it will take about five years or maybe more. But what happens in the meantime? Perhaps the Minister in his winding up can give us some indication as to what will happen during that time.

Let me finally warn the Government that this Bill would be worthless, not even worth the paper it is written on unless the Government is committed and has the political will to implement and enforce it. I underscore that again—finally, I warn the Government that this Bill would be worthless, not even worth the paper it is written on unless the Government is committed and has the political will to implement and enforce it. I find it difficult to believe that a government which

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cannot even perform the simplest, basic environmental task of garbage collection can come to this Parliament and talk about implementation of a Bill of this magnitude. They must take all of us for fools or something may have happened overnight; perhaps somebody came with a magic wand, or maybe a voodoo priest in Haiti cast a spell over the whole lot of them and that has changed them.

**Mr. President:** Hon. Senator, could you withdraw that reference of voodoo priest in Haiti?

**Sen. M. Hosein:** Voodoo is a religion, Sir.

**Mr. President:** It does not bear very pleasant connotations.

**Sen. M. Hosein:** Mr. President, perhaps in his winding up the Minister will tell the country what are the benefits from his trip to Haiti. I want to point out again, that no sane person living in this country can believe that this Government, which cannot even perform the simplest environmental task of collecting garbage—it is unable to collect it for itself, it is now paying for it—could implement a Bill of this magnitude. Mr. President, I am not convinced.

I thank you.

**3.10 p.m.**

**Sen. Everard Dean:** Mr. President, coming after Sen. Hosein in his wide-ranging presentation, it is difficult for me not to repeat some of the things that he said.

The Bill before us proposes the establishment of:

- (i) an Environmental Management Authority;
- (ii) an Environmental Trust Fund; and
- (iii) an Environmental Commission.

Coming soon after the Barbados Conference on Sustaining Development Of Small Island States, and the Jamaica Conference on the Law of the Sea, in a way, the Bill points toward environmental management, as our future depends on nature's future. It also seeks to put in place much needed legislation for sustaining tomorrow.

I have more than a passive interest in environmental issues. Some years ago, I was privileged to participate in an environmental conference in Talloreis, France, which was sponsored by the Tufts University and the United Nations Environmental

Programme (UNEP). Since then, I have been working in my own way towards a better environment. I believe that environmental care is an apolitical issue in that one is working for the welfare of the present and future generations whatever the politics. Therefore, any legislation dealing with environmental and conservation issues must be carefully scrutinized before support is given. This does not mean that I am against the Bill—far from that—I am all for legislation to protect the environment. The key word here is ‘protect’.

I would have expected that a clear and unambiguous policy suitable to the local and regional situations will be the basis for any legislation dealing with environmental protection because, after all is said and done, self-preservation comes first. May I hasten to add that legislation dealing with international co-operation for the protection of the global village is necessary, but, to me, local and regional interests come first. It is with this in mind, I would like to make some observations and pose some questions.

It appears to me that the proposed legislation would guide the policy rather than the other way around. I believe that the policy statements should be declared by the Government. To my mind, the Bill was developed in a policy vacuum and, as such, it has to be defective, and I am concerned with some of those defects. To me, the first defect is the title of the Bill.

Mr. President, before I go on, permit me to quote from a book—if I can put it in perspective—entitled: *Sustaining Tomorrow, A Strategy for World Conservation and Development*, edited by Francis R. Thibodeau and Hermann H. Field. It was published for Tufts University by University Press of New England in 1984. I quote:

“...strategic environmental planning requires a careful analysis at the early, conceptual stage of a project to avoid irreversible or costly commitments. Such global thinking often reveals that the very laws and institutions which govern natural resources are often parts of the problem rather than instruments for the solution.”

The article gives strategic areas for formulating policies and I shall briefly touch on them:

“(1) determine the priority requirements for achieving objectives; (2) identify the potential obstacles to meeting these objectives; (3) propose cost-effective solutions to overcoming these obstacles.”

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It goes on:

“Four principles are useful guides to strategic planning:

- (1) Integrate the various elements involved. Laws, management agencies, use practices,...
- (2) Keep all options open to retain future flexibility. Our knowledge of natural resources and society is limited. To set plans and solutions ‘in concrete’ suggests a great deal of arrogance and will leave future generations with few choices about how to use their natural resources.
- (3) Mix cure and prevention in an effort to deal with current pressing problems and to reduce the hazards of present-day activities that will affect tomorrow’s people.
- (4) Focus on causes as well as symptoms to get at the root of the problem and to aid in understanding the situation as a whole. For example, riverbank stabilization without upstream reforestation may be a wasted effort, ...”

Mr. President, in order to properly assess and debate this Bill, it is important to know precisely why it has been laid in this Parliament. The blunt answer is that the Government has been told to do so by Washington.

**Sen. Dr. Saith:** Mr. President, rather than let the myth persist, may I place on record that I read from the *PNM Manifesto* of 1991. It was a commitment made in 1991 to the people of this country. Having an investment sector loan, the path of the environment the Government wants to create includes having a proper environment, it has nothing to do with the commitment of the Government of Trinidad and Tobago in 1991.

**Sen. E. Dean:** Mr. President, I fully accept what the Minister said but allow me to read the section which deals with Environment on page 30 of the *PNM Manifesto*:

“The PNM believes that the current portfolio and focus of the Environment Ministry are inappropriate. The PNM sees the need for an environmental regulatory agency with more power and resources than obtains at present.

Accordingly, in recognition of the need to preserve our environment for the generations to come, the PNM will establish an Environmental Protection Agency ...”

This is the contract with the people. We are talking about an Environmental Management Authority.

**Sen. Dr. Saith:** Mr. President, I had hoped that the hon. Senator would have listened to my presentation. I went on to state, immediately after reading, that in discussion and consideration, the Government felt—that was in 1992—that the focus of this agency should be widened from purely protection to include total management, and it was the decision of this Government early in 1992 to change from purely protection to management which includes protection. So that it was made even wider than the restricted position which had been taken in the manifesto.

I have no difficulty but I think Senators should fundamentally understand that some of these things are driven by the way the Government sees the necessity for developing the country as it goes along. I think it is unfair sometimes to suggest that these actions are only as a result of some loan.

**3.20 p.m.**

**Sen. E. Dean:** Mr. President, before I go on, I do not know whether the Minister would want to respond to this inquiry. Is it a fact, therefore, that in some of the loan conditionalities the Government was supposed to have put in place an environmental protection agency or an environmental management authority?

**Sen. Dr. Saith:** With your permission, Mr. President, I welcome the opportunity to explain a few things about how loans are negotiated. The Government has negotiated an investment sector loan, a policy loan which says that in order to improve the investment climate in the country, certain things must be done. The Government says we have, as Government, agreed to provide an environmental management agency in this country. The bank says, okay, that is what you have agreed to, let us put that as a condition of the loan and a drawdown will now be based on whether you have kept your promise. It is as simple as that.

**Sen. E. Dean:** This is the point I was trying to make, Mr. President. It is precisely for that reason that this Bill is here—to drawdown on those funds.

**Sen. Draper:** Oh, come on.

**Hon. Senator:** Are you going for Lizard?

**Sen. E. Dean:** Mr. President, to continue my contribution, except I have heard otherwise, I would want to continue in the same vein and the Minister may want to respond in his reply to the debate.

It was no surprise to me to find that the IDB in its loan agreements with our Government set down those conditionalities, the principal one being the establishment of the EPA—the Environmental Protection Agency, or Authority, as it is called. This condition, unfortunately, did not appear to be generated by a proper diagnosis of our environmental situation and an analysis of our own institutional framework, but rather by the fact that Uncle Sam had an EPA and, therefore, what was good for Uncle Sam was thought to be good for us.

The IDB conditionality was never queried by successive governments. The question was never asked: Why an EPA? Is such an institution appropriate for Trinidad and Tobago? Is an American-type institution applicable in a country whose institutions, because of history, are more akin to those of the United Kingdom?

Trinidad and Tobago accepted the conditionality lock, stock and barrel and it came as no surprise to find that the Government pledged in its manifesto, on page 30, to establish an EPA. Somewhere along the way the Government decided to rename the institution "The Environmental Management Authority" and, perhaps the Minister could explain why there was this shift in conceptualization from the relatively easily understood "protection" of the environment to the more complicated one of "managing" the environment. I ask the question: How many Senators could boast that they have a clear grasp of what it means to manage the environment? If there is no clarity of terminology or purpose, then could Senators intelligently debate this Bill? It is noteworthy that "environmental management" has not been defined in the "Definitions" section of the Bill.

As a follow through to the American origins of the conditionality, I understand that an American lawyer, unfamiliar with our legal traditions, was the principal architect of the Bill before the House. Perhaps this could be the reason why it was said that this Bill has been a headache for some parliamentary counsels.

Mr. President, if a legislative purpose is not logically derived and clearly stated, then bad law results. In order to legislate effectively in the environmental arena, a logical sequence of questions must be posed. Questions such as: What is the state of our environment? What are the reasons for environmental shortcomings? What corrective actions are needed to address those shortcomings? Are existing

laws and institutions adequate to cover needed actions or are there gaps? What kind of legislation is required to fill the gaps? What kind of environmental institutions do we need to address the shortcomings? In what deficiency should new environmental legislation be grounded?

If these questions had been addressed, Mr. President, the purpose of the Bill before us would have been different and more clearly stated. Instead, we have a nebulous statement about providing for the management of the environment which has undoubtedly led to the drafting and enactment of nebulous laws. If we were frank, we would say that the purpose of the Bill is to satisfy that conditionality that we spoke about earlier. Given that purpose, it would make sense to draft legislation that would please the IDB, but that ought not to be the purpose in a self-respecting country that cares about the environment in which its children will live and grow. Its purpose should flow from the identification of environmental legislative needs.

You know, Mr. President, when I had my daughter prepare this presentation on the computer, she wondered. You know what she wondered? About her children. If we had done a proper diagnosis of our environmental situation, we would have found that the most pressing environmental need in this country is to control the discharge of pollutants into the air, land, rivers and seas—and Sen. Muntaz Hosein alluded to that—which are largely brought about by industrial and other development. We could remember the Demerara Road fiasco that Sen. Hosein alluded to—the chimneys, ash and waste coming out of them; the nuclear waste moving in our waters next month, after some years. These matters must be of concern to the nation and the Parliament. It is my view that the legislation before this House should be grounded in pollution control and the Bill, of course, would have taken on a different aspect.

Instead, because the Bill is locked into an out-of-the-blue institutional title, it seeks to provide for environmental management, as though environmental management had not been taking place in this country. We have been doing that for decades in different pieces of legislation. If we are clear in our minds as to what environment and environmental management basically entails, then we would see that this Bill, in trying to be all things to all men, stumbles clumsily into territory already catered for by other legislation and government agencies.

It is in the area of pollution control that legislation is sorely needed and one wonders why the present Bill before the Senate did not confine itself to that purpose. It is noteworthy that our environmental management has been achieved,

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hitherto, through development control law which was patterned on the United Kingdom system. In that country, when the need came to address environmental matters not covered by town and country law, they enacted precise legislation aimed at pollution control and set up the appropriate institution, namely, Her Majesty's Inspectorate of Pollution. Could we not have done something similar?

**3.30 p.m.**

Mr. President, there are several definitions of the environment, but one that is quite useful for the purposes of this debate is "the physical surroundings and conditions in which humans live and social patterns governing the use of the resources of those surroundings". The management of the environment will then be seen as comprising four principal prongs, namely:

- (1) natural resources management;
- (2) development control;
- (3) management of the historical and cultural heritage; and
- (4) pollution control.

Of these four prongs, pollution control, to my mind, is the one that cries out most for comprehensive legislation.

Natural resources management is already being controlled by such legislation, and I think Sen. Dr. Saith enumerated those pieces of legislation, the Forests Act, the Conservation of Wildlife Act and so forth. These so-called "green" acts are currently being updated and the Minister of Agriculture, the traditional custodian of the natural environment, has announced that this year will be the year of the environment and the legislative programme in Parliament will soon be entering a "green" period in which all the revised bills will be considered. I wonder what is his reaction to this Bill?

I understand that the protection of natural ecosystems will be the subject of new legislation setting up a National Parks Authority. Should the present Bill before the Senate, therefore, attempt to legislate in the area of natural resources management?

Development control has been the remit of the Town and Country Planning Division under the Town and Country Planning Act. This is the agency that currently administers the important environmental management tool of Environmental Impact Assessment, or EIA, as it is called. I also understand that updated town and

country planning legislation placing the EIA requirement on a better legislative footing has been prepared and is to be laid in Parliament this year. Should the present Bill before the Senate empower another agency with administering the EIA requirement? Does the Environment Division of the Ministry of Planning and Development, formerly the Ministry of the Environment, not know what is going on in the Town and Country Planning Division of the selfsame ministry? Does the right hand not know what the left hand doeth?

Management of historical and cultural heritage has already been catered for by the National Trust Act and the present Bill has wisely steered clear of that. But one wonders why the Minister of Culture has not yet seen it fit to implement this Act? Perhaps if she contributes to this debate, she would enlighten us in this regard.

Mr. President, a serious concern about the present Bill is how the proposed EMA relates to another ministry of planning, a project being financed by the World Bank. This project is related to a business expansion and industrial restructuring loan. The environmental aspect of this project is being handled by the Town and Country Planning Division and I understand there are four main components to this environmental aspect. They are:

1. Strengthening the EIA review capacity of the Town and Country Planning Division.
2. Execution of environmental baseline studies in selected areas in Trinidad and Tobago.
3. Development of environmental information systems.
4. Development of pollution control regulations.

I also understand that this is a three-year programme aimed at equipping the Town and Country Planning Division as the environmental management institution in the country. Strange things happen. If this is the case, could the Minister please explain why we are contemplating the creation of an EMA? Is it not the practice in Commonwealth countries to achieve environmental management through the development approvals process?

**Sen. Dr. Saith:** May I just say it is not the case.

**Sen. Draper:** Therefore, do not pursue it.

**Sen. E. Dean:** I would not pursue it.

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Mr. President, as I indicated before, one of the reasons I think the Bill is conceptually bad is because the cart was put before the horse. Imagine, this Bill calls upon the proposed EMA to formulate policy for the consideration of Government. That would be found at clause 18. One would have thought that the environmental institutions would have been generated by the process of environmental diagnosis and environmental policy formulation. To date, Government has not articulated an environmental policy, so one has to conclude that an EMA is being set up in a policy vacuum which is a recipe for disaster.

In preparing for this debate, I stumbled upon a document, "Policy Brief for the Establishment of the Environmental Management Agency—Report by Dr. S. G. Sultan-Khan, Project Coordinator (EMA)—Consultant under World Bank Technical Assistance Loan—Ministry of Planning and Development, Government of the Republic of Trinidad and Tobago, March 93". Is this the same Dr. Sultan-Khan who is connected with some businesses in this country, Mr. President?

As I understand it, the author of this brief has no track record in environmental management, therefore, we start badly. I looked at the terms of reference:

"On November 2nd, 1992, Dr. Shafeek Sultan-Khan commenced his assignment under the World Bank Technical Assistance Loan as Project Coordinator (hereinafter referred to as 'the Coordinator') for the establishment of the Environmental Management Agency (EMA). He is based at the Ministry of Planning and Development and among his Terms of Reference he is to advise on the legal and management framework..."

Remember this.

"...he is to advise on the legal and management framework for the EMA and the institutional arrangements relating to the creation of the EMA."

It went on:

"The Coordinator submitted an Inception Report in November 1992 and following discussions with the Minister of Planning and Development who is also responsible for the Environment, and the Permanent Secretary, Ministry of Planning and Development, it was decided that the Consultant should prepare a Policy Brief on the Environment for the Government of Trinidad and Tobago."

Where is that brief? I want to just quote one section of "Methodology".

"The Coordinator analyzed the reservoir of information available at the Environmental Division of the Ministry of Planning and Development and consulted with representatives from the Town and Country Planning Division of the Ministry of Planning and Development, the Institute of Marine Affairs (IMA), Caribbean Industrial Research Institute (CARIRI), Bureau of Standards and other governmental, non-governmental and technical institutions."

Mr. President, the biggest joke comes under the "Acknowledgements". Listen to this.

"Most of the information submitted in this report came from studies, and reports from local and international consultants and from persons working in Environmental and Technical Divisions of the Government of Trinidad and Tobago."

It went on.

"He hereby acknowledges the assistance and contribution of Derek Comissiong, Judy Daniel-Paul and Marva Salvador-Arthur of the Environmental Division of the Ministry of Planning and Development. The Coordinator quoted and utilized information extracted from this Division and from the reports of James, Allahar, Field, Kinghorn and Gajraj on the various environmental studies. He also utilized information from international publications of UNEP, UNDP and World Bank.

The Coordinator chose in this report 'not to re-invent the wheel' but in order to ensure he is not guilty of plagiarism hereby acknowledges the ideas, recommendations and information from all the authors, consultants and technocrats mentioned above."

### **3.40 p.m.**

So you see the point I was trying to make earlier in my presentation comes out from this.

**Sen. Dr. The Hon. Saith:** Mr. President, since the person quoted will not have an opportunity to defend himself in this Senate, may I indicate that a project co-ordinator was provided under the World Bank to head a team of people to prepare a brief. The first task that he had to do was to look at all that had been done, collate it and present it in a form which would enable the Government to move forward.

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I indicated in my presentation—and I am beginning to believe that the hon. Senator was absent—that as part of the process, subsequent to that, we have had consultants come down; we have had experts. The team consisted of people from the Ministry of Planning and Development, the CPC's office, and all the experts. What was needed was somebody to co-ordinate and make sure that the process was followed.

I merely want to make that point without any further comment.

**Sen. E. Dean:** I thank the Minister for making that point, but I heard him say that the co-ordinator headed a team to do this work, and my information—and I am going to call two more names—that two members of this team were one Dale Stephenson of the UNDP/UNEP as the legislative consultant and Dr. Roland Hosein and Earl Badaloo of the IDB as technical consultants. This is the information I have which might be wrong and he may want to correct it.

In my concluding remarks, I must say, because of the foregoing—the things that I said before—there are legitimate fears about the workability of the Bill and certain specific questions must be asked.

1. How is the authority staffed? If the environmental officer referred to in clause 33 on page 16 comes from an existing agency, would he be responsible and accountable to someone in his agency or someone from the EMA? What about conflicts and resolution of conflicts if that comes about?
2. How will the certificate of environmental clearance referred to in clause 35 of page 17 relate to development approvals given by the Town and Country Planning Division? Does the Bill not hinder rather than facilitate development because it increases bureaucracy associated with development planning?
3. How will “the environmentally sensitive areas” referred to in clause 41 of page 19 relate to the system of national parks and protected areas approved by Cabinet since 1981 and the proposed national parks legislation?
4. Why does the Bill for its effectiveness rely so heavily on the judicial process (court, fines, penalties, offences)—clause 66 on pages 26-28—typically command and control techniques, rather than conciliatory approaches that are favoured in modern environmental legislation?
5. How does the device of the Memorandum of Understanding referred to in clause 32 ensure inter-agency co-ordination and co-operation?

6. How do existing agencies feel about the proposed structure? My information is that they are not happy at all, and this could be wrong information.
7. Why did we not use the British system of law in this regard rather than the American version? We are accustomed with the English law.

Until these and other questions raised earlier are satisfactorily answered, I cannot see how I can vote on this Bill which might prove to be unworkable. If one votes for an unworkable Bill, then one would be voting for continued environmental degradation. And if one were to vote against it, the unsatisfactory *status quo* would be maintained and one would be branded an obstructionist. It is a straight case of “damned if you do and damned if you don’t.”

I do not want to be placed in a position where I would have to abstain from voting on this Bill. It is a tragic situation in which the only winner would probably be the polluter. The nation will continue to lose environmentally if a flawed and unworkable EMA Bill is passed in this Senate and it remains unimplemented like the National Trust Act, which was unanimously passed in both Houses of Parliament under a previous regime.

I thank you, Mr. President.

**Sen. Diana Mahabir-Wyatt:** Mr. President, I find it is always useful when we are looking at a piece of legislation, especially something that is far-reaching as this one and is going to touch so many people’s lives, rather than come with a prepared statement and a prepared position, to actually listen to the debate and to try to reply to some of the points. I think that this is one of the most serious issues that we have had to deal with for a good while. I know that it is an issue which is very fraught with emotion, sometimes more heat than logic. It has been for many years.

The famous Jesuit, philosopher, scientist, Fr. Teilhard De Chardin came to Trinidad in 1916, and in his book describing his travels here, he commented on how clean it was, and how everything was so orderly, neat and beautiful. I often think of that book and what he had said when I am driving around the savannah. For example—somebody mentioned garbage collection today—if one goes through St. Clair where there are TSTT offices, the Ministry of Education offices, and various other government offices, and behind Whitehall, which is such a beautiful building, one will see the absolute mounds of garbage steaming away in the sun that have been there long before Christmas.

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The contrast between what Fr. Teillard De Chardin described—and he was driving in that same area around the savannah—and what we see today is heartbreaking. I do not think that the concern the people are expressing here is a new concern. I can remember the Trinidad Field Naturalists, some 30 years ago, raising concerns about the environment; I can remember Citizens for Conservation, 10/15 years ago, raising issues about the environment; I can remember the absolute feeling of joy that environmentalists and environmentalist groups felt when we finally did get a National Trust Act to look after the heritage control that Sen. Dean spoke about, and how happy everybody was that finally we were going to do something about this.

Well, as Sen. Dean has just pointed out, and also Sen. Hosein, we have had the National Trust Act now for some time and it has never been proclaimed. The board has never been appointed, and all the money the international organizations had ready to pour into Trinidad and Tobago to deal with our national heritage, has gone other places and we are not going to get it now.

Having said that, however, I must say that when I read this Bill, I felt an enormous sense of gratitude on behalf of everybody that I have ever known or read about in Trinidad and Tobago who has been concerned with the movement to protect the environment, simply because finally we have got a piece of legislation that is comprehensive. It is, mainly, I will agree, aimed at pollution control, in fact, but pollution control is something which I consider absolutely essential in this country.

**3.50 p.m.**

I do not have any trouble understanding what the Bill means when it says to provide for the management of the environment. I am enormously grateful—I think it is a tribute to the Minister responsible for the environment and the intentions of the Government—that, in fact, after all these years, finally, we have got a piece of legislation, which is not perfect. I do not think any of us can claim that it is perfect because the Minister himself is not claiming that it is; he said it is "a beginning". Certainly, it is something which is going to need considerable amendment as the years go by, but the very fact that we have something before us is to be praised and not condemned. [*Desk thumping*]

I think, because we are so concerned with matters before us—and because we genuinely do care about what happens in this country—we sometimes let our tendency to oppose run away with us. I keep thinking of poor Peter Minshall when

he asked: 'Why can we not just say hallelujah and be happy for what we have in this country without getting into religious arguments?' I think we do not say thank you often enough for the things that are good, and this is one thing for which I feel very grateful; just the fact that this Bill has come to this Senate.

Having said that—one would realize, of course, that I am not going to be quite that easy all the way through—one of the things in the PNM's manifesto, which Dr. Saith did not quote, was one of the Founding Principles of the PNM, which had to do with the development of an educated democracy participating actively in the conduct of public affairs by the promotion of political education and practical training.

I would just like to spend a few minutes on this, because I think one of the things which is important in this Bill is that it addresses, in a way that nothing else has been addressed since I have been in this Senate, the question of participatory democracy. I think that is to what this particular manifesto principle refers. I know that in a democratic state, the power of Parliament and the elected government is sovereign, and that is why we have the power to move governments or parties in and out according to whether or not we agree with their policies—environmental control is one of those policies; and whether or not—this is important too—their actions tie up with their stated policies. This is one of the things people look at in this country.

Another thing we look for in our political development is to getting people involved in how the country runs. In no area can this be more important than when one is dealing with the environment, because government cannot control the environment; not with this Bill, nor any other bill. I think the consultation which took place when there were over 70 different bodies that replied to the publication of the first bill was admirable.

It is not fair to say that the Government did not consult with people. I think the Government did consult with everybody who was interested in being consulted in this country when it comes to the environment, but that consultation by itself is not enough. When one takes a look at what is going on around us—I am not going to repeat what Sen. Hosein has said. I know that Sen. Hosein is a very passionate man, and he went very exhaustively and passionately into his description of the despoliation of the environment. *[Interruption]* I can go on, not about Sen. Hosein's passion, but insofar as the environment is concerned.

We are talking about the wetlands. I believe that Sen. Hosein brought that up, but my information is that up until at least three weeks ago, is that no quit order

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has been served on the Jabbars and other farmers who are farming in the Nariva Swamp. They are still there, and as far as I know, they are still operating with impunity. There has been a public outcry. In fact, I do not think the whole issue would have arisen had not the NGOs raised such an outcry about it. There has been a governmental directive, a governmental order, and I think a court order as well, and nothing happened. There has been much feeling and goodwill, but as far as I know, the eight or nine farmers who are illegally trespassing the wetlands, continue to do so.

There are other instances; simple ones. Look at what was once upon a time, a reasonably attractive entrance into Port of Spain over the Lady Young Road. When Senators are next coming to the Senate they can drive over the Lady Young Road and count between 12 to 15 illegal exits and entrances onto that road. This is despite complaints to the Minister, Members of Parliament and questions asked in Parliament. Why not? There are a couple of people who have built illegal entrances onto that road and have actually had the effrontery to pave them. There are beautifully paved curbs and driveways with gates, and why not? Because, squatters squat and nobody moves them, vendors' shacks go up, politicians make speeches and nothing happens.

The sand quarrying in Tobago. I am sure that my colleague, Sen. Callender, is going to tell us about the sand quarrying in Tobago, which I gather, from my Christmas forays, has still not stopped. What about the untreated effluent going into Tobago waters? I am not going to go on, because the point is that I am hoping that all of this is going to change with the passage of this Bill. I am an optimist; I continue to hope even in the face of years of experience, looking and watching and seeing that despite laws being passed, nothing happens.

I do not think this is a bad piece of legislation at all; it is a piece of legislation which can give a great deal of hope to people who care about the environment. It needs work, and we will have to work by experience as we go along. I also think that one of the things which is going to make this work—one of the only ways in which it is going to be made to work—is if we make sure that the Government does not have to do it alone; that people in Trinidad and Tobago get involved in taking care of the environment.

For example, take a look at the savannah. Some months ago, I gather, Amoco Oil Company provided funds for MTS to clean up the savannah. The savannah, which was an absolutely neglected disgrace since the Turf Club left, as a result, has now been cleaned up and is starting to look like the green beating heart of the

city again. I am sure that the Minister of Agriculture, Land and Marine Resources is very pleased about this because the savannah is his front yard.

The Brian Lara Promenade, which has been praised by one and all was financed by business organizations. This has been highly criticized in this Senate at certain times by certain people.

Also, there are stretches of highway verges that companies, organizations and communities have taken over and said that they will tend to them. It is in this way, where the NGOs, communities and businesses organizations can work with the Government that there can be some result. Even around the Beetham, Servol contributes by giving a small stipend to some women living on the Beetham to upkeep the verges that MTS made attractive, which is why there are no weeds and garbage.

The point I am making is that the Bill will not work unless we get the active involvement of people, the communities and NGOs. I was quite pleased when Sen. Dr. Saith made the point about this Bill seeking, by incentives to change the behaviour of people in organizations. He spoke about alternative dispute resolution. I will come back to that.

**4.00 p.m.**

If I could just refer to the Bill for a moment. As a general comment, I think that one of the issues that worries people when they are talking about environmental legislation is the effect that it is going to have on business. Coming from a business background myself, this is something that I cannot help worrying about because as far as I am concerned, what is of paramount importance has to do with employment—with people being able to earn a living. I know that has to be balanced with the protection of the environment. I think that this Bill has made a good effort to balance economic development with protection of the environment. While I think there are some things which have to be looked at again and which need to be changed, I do not think that this is an anti-business Bill, which I feared it was going to be and which I think many other persons feared it was going to be. Insofar as the Bill itself is concerned, there are certain amendments which I would propose. Incidentally, should this not be the Environmental Management Bill 1995 and not 1994?

**Sen. Huggins:** No. It is 1994.

**Sen. D. Mahabir-Wyatt:** Okay.

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I would not go into the details of some of my amendments which have been circulated, insofar as the definitions are concerned. I would do that at the appropriate time when we are in committee. You would notice that the amendments to definitions have to do with tightening up of some of the hazardous substances, not just substances.

There is one point I would like to make—because I do not think that the Bill takes care of pollution of sea and air, as much as it does pollution of land. For example, where it talks about vehicles, meaning any form of conveyance for transportation, I would like to emphasize transportation on sea and air, as well as on land, because there is so much pollution of the sea.

One of my first points—which I think has also been made by Sen. Hosein—has to do with the work of non-governmental organizations in relation to getting environmental management going. In the first draft of the Bill, I noticed that this authority was not cast in brick and mortar, and I do not have any problems with the make-up of the authority itself, except that in the last draft the board included,

"nine other members who are suitably qualified and would bring to the board diverse expertise, experience and viewpoints on environmental issues, including:

- (i) two individuals actively involved in non-governmental organizations which deal with environmental or specific natural resources issues;
- (ii) seven individuals drawn from each of the following areas."

It listed largely the same areas which are in the new draft, but the new draft has taken out the special provision that two places on that board be reserved for individuals actively involved in non-governmental organizations which deal with the environment. Were it not for the non-governmental organizations over the last 15 or 20 years, this Bill would not be here. The NGOs were the only ones that were concerned with the environment and have done all the public awareness work.

I think that removing them from the board and letting them be lost in the general grouping is a mistake. I cannot understand why this is being done. Obviously, somebody had to object specifically to having those two places reserved for non-governmental organizations. It is hard to understand why, when the Government keeps talking about wanting to co-operate with non-governmental organizations and communities, that it has deliberately done this, unless it is some

sort of withdrawal of the commitment to work with non-governmental organizations. I hope the Minister would explain this to us.

We know the fear of change that people have. We know how people in government ministries are afraid of losing power and sharing it with non-governmental organizations. I think that if we are going to get into a new period of change in this country, then we have to face it. That is my first point.

The other point is that there is no indication in Part VI as to how people on the board would be appointed and changed. I think that needs attention. I am very pleased to see in this draft that the chairman of the board has to submit an annual report to the Minister which also has to be laid in Parliament. That was in the old draft and it is also in the new draft, and I am very glad to see that.

However, I was wondering—and perhaps if my colleague Sen. Daly is speaking later he might comment on the legal aspects of this—whether or not it would be a good idea to have the commission also make an annual report to Parliament. The commission is set up, as a superior court of record, and the fact that it has replaced what was basically a board committee, I think is laudable and it would be churlish to quarrel with that. However, I am thinking that to keep environmental issues before the public, like the Industrial Court which is also a superior court of record, whether that commission, like the Elections and Boundaries Commission, could not be asked to make a report to Parliament on an annual basis. Mind you, the Industrial Court does not actually do it; it is just "required to do it." Again, this is a matter of implementation. I was just wondering if the Minister would take a look at that, because I think it is an issue which might be useful.

I am also going to ask the Minister when I am moving my amendments, whether once the national environmental policy is developed, we cannot put back into the Bill that it should be brought back to Parliament for affirmative resolution. This was in the old draft and somehow it was left out in the new draft.

The developing of standards under the Bill in clause 22 is an extremely good point. Again I ask, when the Minister is talking about people in charge of any premises or vehicles, that he looks at including ship or aircraft as well, because vehicles are distinctly designed not to be included. [*Interruption* ] Yes, but not according to the definition in the Bill. The definition in the Bill does not leave it that wide, and people will slip through.

I am very concerned about people slipping through little spaces in legislation. I think we have had too many negative comments in this country about things that

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happen in terms of our efforts at development which say that there is no transparency, no accountability; that deals are being made; and that vested interests are being protected. If we had a report of the commission coming to Parliament, and there was anyone acting contrary to an environmental code, it would be far more difficult for these kinds of accusations to be made. I really hope that the Minister would take a look at this.

I would like to specifically commend the Government for Part IV, Rules in Public Participation. I think that all Acts should have this. Contrary to my colleague, Sen. Dean, this is the first time I have seen this in a piece of legislation in Trinidad and Tobago where rules are made up under the law for public participation and comment in whatever the policy is and the procedures in all kinds of issues dealing with the environment and the management of the environment. I am so pleased this Government has set a precedent by putting it in this Bill. I hope that it realizes that having put it in this Bill, we would be asking to have it put in in every other bill.

**4.10 p.m.**

What this does is move the country towards participatory democracy; it says that we can make comments and that a formal structure is being set up for this. This is quite extraordinary. I am very pleased that, as an issue, the Government brought this forward.

I have just a few more brief points. I am sure that you will get many more comments on clauses 35, 36, 37 and 38, but the bureaucracy which will be involved in this "toing and froing" from the Environmental Planning Committee and the Town and Country Planning Division when it comes to such matters as the development of the tourism industry, creates delays of months, which will be inimical to our economic development. I think it is totally unnecessary when it comes to private homes, and I wonder if the Minister could not take a closer look at that. This "to-ing and fro-ing" with environmental impact assessments will be very difficult.

There is one other point in this section. The Minister has said that this is supposed to be an Act which will persuade people, "trying to seek by incentives to change behaviour of people and organizations". Could I suggest that the Minister take a look at some of the language in clause 47:

"The Authority may ... require any person who releases ..."

and change that to "advise any person who may release ...". It could be that the advising approach, rather than the requiring, might suit his purposes a little better.

The following sections deal mainly with pollution, and while I think that I am uncomfortable with clause 50(1), which is granting a permit to pollute the air, and clause 53(1), which grants a permit to pollute the water, I hope that the regulations will take care of this.

I would like to point out a mistake in clause 69(1). It talks about "specified environmental requirements identified in section 62(1), except paragraphs (c), (d), (l) and (m)." There is no "(m)", so the Minister might like to have his drafters take a look at that.

Just one other very short question: Could the Minister, in his winding up, give us the reason why the board members are coming from the Authority rather than a neutral body?

I think that these are the major points I wanted to mention. As I said, I am moving some amendments. There is one thing I have been very critical about in legislation, and that is, where we are setting up authorities, there is often a provision which says that any salary over \$3,000 a month has to be approved by the Minister. This has not been put in this Bill and I would like to say that I am very grateful for that. It renders salaries obsolete very quickly. I did notice that the fines were done like that and I thought that that provision might perhaps be looked at.

In closing, I would like to go back to the point about implementation. I think that Sen. Dean's point was very well made, and so was that of Sen. Hosein. If we cannot implement what we already have—we cannot implement the National Trust Act, which has not yet been proclaimed—how will we be able to get this legislation going, which gives such hope for the future?

Thank you, Mr. President.

**The Minister of Community Development, Culture and Women's Affairs (Sen. The Hon. Camille Robinson-Regis):** Mr. President, in my contribution I will try mainly to deal with the legal issues that have been raised and have not been fully understood in the debate thus far.

My colleague, the Minister of Planning and Development, indicated that the Bill before this House came initially as a result of a commitment made in the *PNM Manifesto* of 1991. There has in fact been a change of name, but that does not mean that there has been a change of intent. The intent was there in 1991 to

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establish a protection agency, an agency which dealt with the environment, and the Bill before this House has done more than that. The Bill is attempting to establish a management agency which will include protection.

In his explanation to Sen. Dean, the Minister did say that the Government indicated to the IADB that its intention was to establish a protection agency, and on the basis of that, the IADB constituted its plan of action for Trinidad and Tobago to include an environmental management or protection agency. So, it is not that the IADB is running the workings of this particular Bill. Yes, we have consulted with them, and that is only natural, but the first intention was stated quite clearly in the 1991 Manifesto of the People's National Movement.

Before this Bill was brought to the stage of being debated by this honourable Senate, we had several drafts. We have had consultation with several agencies and individuals. My colleague indicated that we had over 70 responses to the Bill when it was put out for public comment. Unfortunately, only one parliamentarian responded to that call for public comment and we are grateful to him. I would like to point out that 12 ministries responded, five statutory authorities, two state companies, 10 foreign-based companies with local offices, four international organizations, two trade unions, four institutions located in Trinidad and Tobago, 12 non-governmental organizations, nine individuals and nine other organizations.

I would also like to point out that all these organizations, agencies and persons were met with, by members of the team which was established to draft this Bill, and they included members of the Ministry of Planning and Development.

There has been some concern expressed about the type of legislation that is before the Senate today. The question has been asked: Why was there not pollution legislation?

This legislation seeks to do two things. It seeks to establish an Environmental Management Agency and also it seeks to put anti-pollution legislation before the Parliament and into the laws of Trinidad and Tobago.

We have over 40 pieces of legislation that attempt to deal with the environment. What has been clear is that enforcement has been a problem and our investigations into why enforcement has been a problem have revealed quite clearly that there has been no co-ordination of the management of the environment which exists in Trinidad and Tobago. Consequently, the legislation before this Senate attempts to deal with that problem of managing the legislation which

already exists and, indeed, managing the environment as it will develop in the years to come.

**4.20 p.m.**

**Sen. Prof. Spence:** Could the hon. Minister explain why it is necessary to put those two quite different aspects of the environmental control system into one bit of legislation? Clearly the Minister has outlined—I believe correctly—that the Bill has two completely different thrusts. Why not two bits of legislation?

**Sen. The Hon. C. Robinson-Regis:** What we found in our investigations was that there was the immediate pressing problem of lack of legislation to deal with pollution problems. Instead of coming to the Parliament with two different pieces of legislation, the object was to deal with the pressing problem of pollution control immediately upon the establishment of the Environmental Management Agency.

An examination of the legislation would show that with regard to other issues, that is, issues other than pollution control, the Environmental Management Authority has a period of time within which to deal with those issues. However, because of the issues raised of lack of proper waste disposal and solid waste management, which are issues that have been raised in this Senate today, we felt it would be necessary to deal immediately with pollution problems and rather than coming to Parliament with two different pieces of legislation, we thought it expedient to put both in one comprehensive piece of legislation.

Consequently, the Bill before this Senate today deals with the establishment of the authority and with pollution control. What we found when we were determining the type of legislation that should be brought before this Senate, was that clearly there was an inadequacy of the existing laws to deal with the problem of the environment. Although there are over 40 pieces of legislation, none is adequate to deal with the problems which we now find in Trinidad and Tobago.

Additionally, there have been what we call legislative gaps in the type of legislation that now exists, to deal with environmental issues. There is also a clear absence of enabling legislation—in many instances, even though the legislation exists on the books, there is an absence of proper procedures for implementation. Also, the legislation that exists crosses several ministries and, consequently, there has not been proper co-ordination of the issue of environmental management. Hence, we are before the Senate today to deal with that very pressing problem of environmental management.

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The question was raised with regard to reliance on the judicial process. On more than one occasion, we, as a Government, have been chastised because apparently the judicial process appears not to be working and several Senators have claimed that the judicial process takes too long, and consequently, there should be a reform of the judicial process in Trinidad and Tobago. We have had no difficulty with that and we have admitted that we are in the process of dealing with that issue, and in particular we have put several measures in place to try to alleviate that problem. In this particular instance—

**Sen. Mahadeo:** Thank you for giving way.

Would the hon. Minister please tell us what is happening, now that she has mentioned that the Government is going to be dealing with the lack of the operation of the judicial process; for example, for years, the Litter Act has been on our statute books to deal with the question of litter among other things, solid waste and so forth. How have we been handling that through the years?

**Sen. Huggins:** I would deal with that in my contribution.

**Sen. Mahadeo:** Not you, I am addressing the Minister.

**Sen. The Hon. C. Robinson-Regis:** Mr. President, if my colleague will allow I would let Sen. Huggins deal extensively with that. *[Laughter]*

**Sen. Mahadeo:** But hon. Minister, you are at the moment dealing with your contribution on the debate; you mentioned certain things and I thought I should ask you to answer that. Why does it have to be my dear Friend across on the other side?

**Sen. The Hon. C. Robinson-Regis:** I would not really like to mislead the Senate and on this occasion I would not be able to deal comprehensively with that question so I prefer to say nothing.

Mr. President, I repeat that our major aim is to deal with co-ordinating the system of dealing with the environment. Reliance on a judicial process which is established by this particular piece of legislation is to get away from the situation that has developed, unfortunately, in the Nariva Swamp, where there has been a certain amount of toing and froing from the Magistrates' Court to the High Court with several judicial orders being made, but nothing concrete having been done. The situation is that the court process has not been as expeditious as we would have liked.

**Sen. Daly:** If we are going to be getting away from any judicial process, a concept that is very alien to me, I would require a detailed explanation in what went wrong in the enforcement of the Nariva Court Order, and why we are

resorting to this device of an Administrative Order. So perhaps I could give that indication before tea, because I do not want to get away from any judicial process.

**Sen. The Hon. C. Robinson-Regis:** The object is to ensure that matters dealing with the environment are handled expeditiously because we have seen what has happened with the Nariva Swamp situation. *[Interruption]* There has in fact been difficulty in enforcing the Order made by the Court.

**Sen. Prof. Spence:** Could the hon. Minister explain to us—the National Flour Mills is a Government- owned company—why the Government continues to buy rice from these illegally operating farmers?

**Sen. The Hon. C. Robinson-Regis:** I am not aware that the National Flour Mills has been buying rice from these illegally operating farmers. *[Interruption]* I am not aware, Mr. President.

**Mr. President:** I think this is a convenient time to take the tea break. The sitting is suspended for approximately half an hour. The Senate would resume at 5.00 p.m.

**4.29 p.m.:** *Sitting suspended.*

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

**Sen. The Hon. C. Robinson-Regis:** Mr. President, the type of legislation that we have brought before the Parliament has been arrived at after considerable discussion. With regard to environmental legislation there are three main types of legislation that can be used to deal with environmental matters which have been used by various countries.

There is what is called anti-pollution legislation which seeks to deal with pollution control. The main focus of that type of legislation is pollution control. However, the shortcoming of that type of legislation is that it does not deal with overall environmental planning or with the issue of natural resources; how natural resources are to be controlled.

The second type of legislation which countries have used to deal with environmental issues is what is called environmental codification, which is an attempt to bring all the types of legislation together under one environmental code. So in this type of situation which we have with over 40 pieces of legislation existing, the aim would be to streamline all these pieces of legislation and not just reproduce the legislation as it exists, but to streamline it and develop a systematic consolidation and revision of the legislative system dealing with the environment.

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What is found however, is that with regard to codification, it does not lend itself to a comprehensive approach to environmental law or environmental management, nor does it lend itself to the development of a national environmental policy.

Mr. President, what we have is the third type of legislation that can be used to deal with environmental issues, which, is called framework legislation. This is a relatively new type of legislation and what it attempts to do is to develop a general framework for legislation that will, over a period of time, develop in such a way to deal with environmental issues as they become more and more relevant. The type of legislation which we have opted for allows for growth in the law that deals with environmental management, and growth in the law that deals with pollution control.

It has been felt that this type of legislation would be best suited to the environmental scenario in Trinidad and Tobago given the fact that although we have had several pieces of legislation existing, the legislation on the books does not effectively deal with the environmental system as exists now. Consequently, the object has been to develop framework legislation which is umbrella legislation which will allow for the development of environmental management and environmental legislation to deal with several issues.

This type of legislation can also allow for codification of the existing legislation and, as I said, the codification is not just a re-statement of the existing law, but a revising and a streamlining of the laws that exist. The type of legislation that we have chosen will allow for the development of the legislative system as it relates to the environment.

Mr. President, what we have found is that there is indeed a certain amount of urgency with regard to environmental issues, and rather than at this time try to make a restatement of the law, the object is to ensure that we have an agency or authority which would co-ordinate the work that already exists between several government agencies in dealing with the environment.

I would like to state what the broad objects of the Acts are: This is set out quite clearly in clause 4 of the Bill. Unfortunately, one of my senatorial colleagues who spoke before me seemed not to have read the Bill very carefully. The Bill quite clearly states what its objects are: I will not quote the section in its entirety because it is here for all to read. The Bill clearly states that its objects are to—

- "(a) promote and encourage among all persons a better understanding and appreciation of the environment;

- (b) encourage the integration of environmental concerns into private and public decisions;
- (c) ensure the establishment of an integrated environmental management system..."
- (d) develop and effectively implement written laws, policies..."
- (e) enhance the legal, regulatory and institutional framework for environmental management."

Clearly, Mr. President, clause 4 which follows closely after the interpretation clause outlines what are the objects of this Bill before the Senate.

**5.10 p.m.**

Mr. President, the question was raised as to how the Environmental Management Authority would deal with all the other agencies that have to implement environmental policy. Clearly, the Bill suggests that there will be a Memorandum of Understanding between agencies. This is not something new to governmental agencies or agencies that have to deal with the same type of issue. A clear example is the Town and Country Planning Division which has to deal with various agencies in coming to its eventual decision and there is a clear understanding and working among these agencies to ensure that a decision is arrived at as quickly as possible.

I repeat: This is not something new and, as the Minister of Planning and Development stated, the intention is to establish an authority which is lean. There are already officers who have been in the process of carrying out environmental functions, and rather than have them duplicate these functions through this new Authority, the object is, as the Bill clearly states, to designate them as environmental officers. It is a process of continuing the work they have been doing and also doing work in new areas. This has been discussed with the agencies of the Government which already have these officers on staff, and it will be developed even further by the Memorandum of Understanding, the object of which is to institute levels of collaboration, interaction and co-ordination which are necessary for the participative management approach that has been outlined very clearly in the Bill before the Senate today.

Mr. President, may I repeat a point raised by Sen. Mahabir-Wyatt, that is, the issue of public participation in the development of the environmental policy and a clear understanding of environmental awareness. It is clear that the non-

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governmental organizations have been in the forefront of establishing public awareness of environmental matters and the Government is of the view that the participatory approach in this particular aspect of governmental policy will, in fact, redound to the benefit of all citizens. The environment is an area which touches all of us and, consequently, we can only gain by ensuring that there is participation of members of the public in devising a national programme for the environmental management of the resources of Trinidad and Tobago.

A question was raised with regard to why the United Kingdom system was not used in this particular instance. In many instances, this country has had a history of following United Kingdom legislation but that does not mean that at all times United Kingdom legislation must necessarily be followed.

It was stated quite clearly that the Bill before the Senate today is not a copy of any bill which exists at present. Of course, the Government would take advice from several agencies and look at laws which have been developed in several countries, but what is very clear about this particular piece of legislation is that the issue is one which touches everybody in Trinidad and Tobago and, consequently, the legislation which must be developed must, of necessity, be legislation which reflects the environment within which we live at this time. The effort, therefore, has been to ensure that this type of legislation is applicable to Trinidad and Tobago.

The issue of using a consultant from the United States is one which, if we look at it we would see that the United States is one of the countries which has been in the forefront of environmental management issues and even though it may have its own difficulties, it has developed one of the principles which this type of legislation tries to articulate, which is, the "polluter pays" principle. That is one of the principles upon which this legislation is based because the Government feels that the polluter must pay for any damage he or she may cause to the environment and, consequently, pay for any restoration that can take place.

The establishment of the Environmental Management Authority through this type of legislation is an attempt to rationalize the institutional framework that now exists to enhance and tighten the system of environmental management to make it more efficient. Until a phased programme is introduced, individual agencies will continue to exercise powers under their existing jurisdiction with the Environmental Management Authority performing a co-ordinating role. The establishment of the Authority, therefore, is intended to support and enhance the functioning of those agencies and to eliminate duplication of effort.

This Bill seeks to establish a dynamic well controlled and well co-ordinated system of environmental management in Trinidad and Tobago and to deal, at once, with issues of pollution control which, at this time, are not properly dealt with by the existing legislation.

Mr. President, I commend this legislation to my senatorial colleagues and, like the mover of this Bill, I, too, seek their support.

Thank you.

**5.20 p.m.**

**Sen. Michael Mansoor:** Mr. President, it is a great temptation to start off my contribution to this debate by congratulating the Minister for bringing this Bill to the House, but before I do that I thought I would impose upon myself a reality check and the reality check is this. Is this Bill really going to make a difference, or is it going to be like so many other pieces of legislation that have been brought to this House with sound and fury that ended up either not being proclaimed, or not being implemented? So that, my first very fundamental concern is: Is this going to work? Is it going to happen? My other concern is: Will we be creating in this proposed legislation what one might call a runaway horse—an institution, an authority and a commission that would be able to self-direct and run away and act in a manner that is not consistent with the goals of the Government and the country, and in that manner put the lie to one of the 'Whereas' statements in the Preamble to the Bill. I refer to the question of sustainable development?

Mr. President, I trust that nothing I say here today would be interpreted as a willingness on my part to be soft on pollution or soft on people who destroy the environment. However, what I am very concerned about is the tendency I see in this administration and previous administrations to side-step the very fundamental responsibilities and issues of government and put in another body, the Authority, to make rules and regulations so that the Minister or perhaps Government can say, "Well, it is not this Government, it is not this Minister, it is really that authority". This is my most fundamental concern about this legislation—that we are creating an Authority which in time Government may very well wish had not been created. I go so far as to say that we are creating a commission—that word commission—which the Government may regret.

Mr. President, I hang my hat on that very ominous clause in the Bill that says: "The Minister may give general policy directions to the Authority." That, as far as I am concerned, is the limit or constraint for the Minister and the Government—

policy directions. I ask the question: Can anyone really define the difference between policy and operational action?

The whole philosophy behind this Bill is questionable because one would have thought that a Bill of this nature, necessary as it is, would have proceeded from a policy and then we would have had an environmental code, and rules and regulations or laws. But somehow or the other that logical methodology seems to have been sidestepped or avoided. Because the Minister, who can only give policy directions, has to wait until clause 18 comes into action where it says that the Board of this Authority shall prepare and submit to the Minister some two years after the commencement of the Act a policy position.

So that here we are creating an Authority. Policy is not determined because that is going to happen in two years and the Minister can only direct general policy matters; and I ask: Will the Minister be responsible for this Authority? If he is not, who is accountable for the actions of this Authority? If no one is responsible to the electorate or the people for the actions of this Authority, we will be making a grave error today by giving this Authority all kinds of powers to create rules and regulations which the population will have to follow, whether it likes it or not. So I ask the Government: Has it really considered what it is doing here?

**Sen. Daly:** No!

**Sen. M. Mansoor:** Why does this Government seek to put the responsibility elsewhere? This is a matter which will affect the lives of our people, one way or the other—too much pollution, or too rigid a regime. Ministers who are accountable to people every five years are the ones who should be able to run this Authority to make sure that what we do promotes sustainable development. Because I am very worried that a minister will come here one day and say, "Well, it is not me, it is the Authority and the Commission".

Let me amplify my point by asking the Senate to consider clause 27 which has to do with the formulation of laws, I believe. We are told that this Authority shall draft rules for public comment and we are told in clause 27(d) that after 14 days in the *Gazette*, if there is no public comment it becomes law, and further, we are told that if there is public comment it goes to the Commission.

Now, I am not a lawyer, but I ask the question: If the Commission is going to be involved in making rules, how can it be asked afterwards to adjudicate on those rules when matters come before it? Is Parliament not the place where rules and

regulations are made? Who forms this Commission? Why should they be acting like a Parliament? If it is that the Commission is like a court, and I speak in very simple language, should courts make rules like these?

**Sen. Huggins:** There are rules of court.

**Sen. M. Mansoor:** I ask the question. I thought Parliament made the rules. I do not mean procedural rules, I mean rules that is involve whether we have so many parts of oil per million parts of water. Those are the rules I am talking about and I ask: is this Commission going to have the competence to determine whether we should have so many parts of oil to so many parts of water? How is the Commission going to adjudicate on these rules? Because at the end of the day, the Commission has a chairman and two people—that is a quorum. It is not a matter of legal procedure, it is a substantive issue, so I ask the question: Is this Commission going to have the staff, the intelligence and competence to determine what are essentially scientific matters?

So that, we have an Authority which, like Parliament, can make rules, subject only to a Commission, if someone objects within 14 days of something being in the *Gazette*. I ask the question: Are we creating an entity which we will not be able to control? Why, for example, do those rules not come to Parliament? Positive resolution/negative resolution. Why should we be putting in the hands of this Authority all this power that may escape ministerial control and, therefore, may escape real accountability? Who is accountable here? Who is going to strike the balance between sustainable development and a clean environment? Because that is what it ends up being—it is a balance we have to establish between a clean environment, jobs and a sustainable economy.

I am not persuaded that this Board and this Commission have the competence and capability of doing that. I ask the Minister to reconsider this matter and he can do it, very simply, by amending clause 5. I am not at all happy. I do not understand what the term "general policy directions" means and I have been around for a little while. What does "general policy directions" mean? For example, should the Minister have a veto if there are regulations or administrative orders, or whatever, put out by the Authority and he does not like them? And should that veto be in the law?

**5.30 p.m.**

I now come to the composition of this board We are told that there is going to be an eleven member board with persons from a variety of disciplines. I direct the Minister's attention, or I ask him to consider clause 6(6):

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"The President may remove a member of the Board for misbehaviour, inability or refusal to satisfy the terms and conditions of office established at the time of his appointment."

I ask the question: Does this give the Minister, through the President, the power to deal with incompetent directors? At the end of the day, that is what it is all about, having competent people who are prepared to go to board meetings once a month. I know for a fact that we are not strangers in this country to making appointments and not being able to revoke them.

I ask the question: Should they not amplify this clause to ensure that the Minister who may be taking some policy responsibility for this, at least has some sort of mechanism that he can remove chairmen or directors who are not performing? Because misbehaviour, or inability or refusal to satisfy, as we have found out on other occasions, is very limited criterion for removing people.

Mr. President, I just want to make a few comments about this authority again because I have said that it could be an institution we would not be able to control. Essentially this authority can appoint policemen, if we will; policemen who have the right to enter. It can make its own laws and regulations. It can decide that if Sen. Rahael wanted to open a new industry or business, that its approval is needed. It cannot be opened unless its approval is had and nobody is really accountable if the approval is not forthcoming, unless a very long procedure with a commission is gone through, which may or may not be competent to deal with the matter.

So that this authority being created is a very, very powerful authority if this Bill is serious. Of course, it can go the other way, like so many other things have gone. Like the verb 'to be' in Latin, the same case before it as after it. Well, we hope not. [*Laughter*] But if this authority is going to do something, it is a very powerful authority that can take policy directions away from a minister. It can determine what is pollution—air pollution, water pollution. It can determine what kinds of processes are acceptable. It can determine what kinds of business processes can go on or not go on. It can determine how many parts of oil to parts of water can be put out into the sea or into the rivers. These are very important matters that can have very far reaching effects on the economy, on the people and on jobs. I ask the question: Why do we just leave it to an authority, to a commission? Then we stand by and say it is the commission, it is the authority and the Minister can do nothing about it.

I go further and say that this authority is going to be a money making business. There is money involved in this thing. There is trust fund which is under the control of the directors of the authority. Under clause 66, the authority on its own volition and in its own discretion can decide to fine individuals \$5,000 and \$1,000 a day, or companies \$10,000 and \$5,000 a day. What worries me about this is that these fines go into the coffers of the authority, via the fund and I ask the question: Are we creating a monster which may decide, for whatever reason, to fine people because it gets the money itself?

I remember a situation in another jurisdiction where tax auditors were given commissions by the amount of assessments they made. I ask the questions: Why do these fines not go to the Consolidated Fund? Why put the money back into the same organization so that on a profit and loss basis if you will, the authority gets a lot of money if it imposes fines? There is a situation where one has to question—will this authority be faithful to the preamble, or might it be faithful to other directives, other objectives which we may not want to countenance at this time?

I come back to this question of rules. The power of the commission to affect rules is contained in clause 84(5). I ask this very fundamental question: If rules when broken lead to fines, where is the objectivity on the part of this authority?

Mr. President, one can argue and one can get involved in many of the details, but I ask the very fundamental question: Are we certain that we do not require some sort of majority to pass this legislation? Administrative Orders—I say this out of experience because there is another piece of legislation on the books of this country, of which Sen. Daly is very aware, which when litigants try to get protection, they are told by the opposing attorney, "Well, it is invalid you know, because it did not get the required majority in Parliament." People have suffered because of that and suffered dearly.

I ask the question: All of these rules and procedures that one has to follow, do they not somehow interfere with peoples's rights? We are creating a body that can give an administrative order and say stop business today because it said so, not because Parliament said so, or because the Minister said so, because it said so. And we say, simple majority in Parliament. I have my doubts and I venture to suggest that the first time that something important comes up, we are going to have another of those constitutional motions. Sen. Daly would probably want to deal with that. *[Interruption]* Probably both places, one never knows. I ask very fundamentally, are we very sure that what we are doing here has nothing to do with people's rights?

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I would like to conclude by saying that, yes, this is good legislation; yes, very desirable; but there are no real safeguards that would protect us from an overzealous authority and perhaps an inexperienced authority. That is what scares me because I have often listened to people who speak about the environment and if I come away with one feeling, it is that there is always a lack of balance on the part of people who deal with these matters. I say again: We have no protection that would guarantee balance because the Minister has walked away from it, the commission is making rules on substantive issues and adjudicating on them, and the authority is a law unto itself on the basis of day-to-day activities.

I would suggest that the Minister entertain amendments that would deal with the question of what does "general policy" mean. Maybe the Minister should have some veto rights against rules and regulations. Maybe even those rules and regulations should come to Parliament because that is really where it matters. All these pious statements about environment this and that, that is fine, but the rules and regulations that will affect people's lives, we cannot just sweep them under the carpet and hope that all will go well.

I thank you, Mr. President.

**5.40 p.m**

**Sen. Surendranath Capildeo:** Mr. President, I want to take this Bill out of its trite ordinariness and clothe it with an aura of immortality. You see, it is my view that this Bill is of fundamental importance to the lives of the citizens of Trinidad and Tobago as we enter the 21<sup>st</sup> century. There is an environmental economic revolution taking place in the world today. It is transforming our attitudes to work; it is transforming the attitudes of the large multinational corporations and the huge business organizations; it is transforming the way we live and it is transforming the world as we know it.

It would appear to any observer that ecological and economic goals, when reached in environmentally sound businesses will ensure the survival of those businesses, but those that fail to meet the new green market imperatives will become extinct. That is how the 21<sup>st</sup> century is going to unfold, as far as environment and business are concerned. To my mind, this Bill is of fundamental importance.

In the old days there used to be two acronyms when one spoke of the environment. One was called NIMBY.—Not In My Backyard, and the other was called BANANA—Build Absolutely Nothing Anywhere Near Anyone. That was the attitude to environment. But that has been changed recently, and I want to use

a quotation from a book called *The Environmental Economic Revolution* by Michael Silverstein, published by the St. Martin's Press late last year. It has changed to a new single equation—"What is good for the environment equals what is good for the economy." To put it the other way around: "What is good for the economy equals what is good for the environment."

This debate is not new. In our hemisphere it began a long time ago with the creation of the Sierra Club in North America by a man called John Muir, and he led a group which was known for its ideology of preservationism. And coincidental with that group, was another group which called itself conservationists, headed by a man who was the founder of the Yale Institute of Forestry called Gifford Pinchot. Teddy Roosevelt, the American President, adopted many of his policies to the extent that the policies of Teddy Roosevelt in 1912, were adopted by Bush who called himself "the environment President" in 1988.

So what we are debating here is not new but it is absolutely fundamental to the well-being of the nation. That was the beginning of the environment debate in this hemisphere. It continued and it erupted in the 1960's when the book, *The Silent Spring* by Rachel Carson was published. That book dealt with the effects of DDT, and that opened people's eyes. From the 1970's onwards, the American world fairly exploded. I want to quote pages 13 and 14 of the text to which I just referred.

"The pivotal year for ...environmental economics was 1970."

So we are only 24 years late. It continues.

"This was the year the first Earth Day was celebrated, the year the Environmental Protection Agency came into being, the year the first pieces of modern environmental legislation—the National Environmental Policy Act and the original Clean Air Act—were passed by Congress.

Between 1970 and 1980, another half-dozen key federal environmental initiatives became law. The Safe Drinking Water Act...; the Clean Water Act...; the Hazardous Materials Transportation Act..."

And *Greenpeace* is sailing into this country in 1994 to warn us. It continues:

"...the Resource Conservation and Recovery Act...; the Toxic Substances Control Act...; the Comprehensive Environmental Response, Compensation and Liability Act.

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In this same decade, state and local governments passed hundreds of new environmental laws. Environmental bureaucrats at all levels of Government issued thousands of new regulations, and the courts rendered myriad environment-protecting decisions.”

This is 20 years ago in America and they still have not begun to solve their problem. We have taken the first step. It goes on:

“By the mid-1970s, American government had emerged as a mediating, balancing, and, not infrequently, facilitating agent for two officially recognized but largely irreconcilable environmental economic visions put forward by the save-the-environment-at-all-costs, and the pollute-we-must establishments.”

It is a debate in which we are going to engage in this country now, the save-the-environment vision, as against the pollute-we-must, because we have to begin doing big business. Which leads me to take off immediately on Sen. Mansoor’s point. It is of vital importance to know who and what this commission is, because what is going to happen here is that we have opened up the economy and—I will quote later on—it is the free market economy which has led to this kind of legislation, and it is the free market economy which has brought into Trinidad and Tobago huge multinational corporations with which we just do not have the resources to deal. So I want to know who is man in this thing or who is woman in this thing, because we can be bought.

I am not ashamed to say it. Citizens of Trinidad and Tobago have been bought, lock, stock and barrel and have proven, as elsewhere in the world, they can be corrupt as anybody else. When they are dealing with the health of this nation and they put it in the body of—what is this thing called? I do not know—they put it in a management committee and that committee has my health in its hand, and that committee has to deal with these very, very large corporations; I want to know who comprises the committee. I want parliamentary supervision over this. I want parliamentary supervision over the regulations. I want an American congressional-type committee to investigate any application here, because when one thinks about a multi-billion dollar corporation committing an environmental crime and there is a committee that we do not know about investigating that crime, all kinds of things start running through my mind. They begin with O’Halloran and they end with Prevatt.

**5.50 p.m.**

I make no bones about that one. The genesis of the PNM is corruption, and this opens the door to infinite corruption. *[Interruption]* If the Senator does not understand the word he should buy a dictionary and look it up. I have said before that my function is not to teach the Queen's English to illiterate Senators. *[Interruption]* The DLP had two very famous men in it; one Rudranath and the other Simbhoonath, now I am standing here, so the Senator should keep quiet. Mr. President, the Senator asked for that.

Mr. President, let me remind this Senate that we are speaking for save-the-environment-at-all-costs vision and we are speaking for pollute-we-must establishments. Those are the two schools. Here is what the author goes on to say:

"Each vision had its own media and economist retainers. Each had its own affiliative for-profit and nonprofit special interest supporters."

They have already been the mill with respect to that in the United States of America. We are about to enter it and we on this side do not intend to make those mistakes. We want parliamentary control! We want to know who is running our lives because this thing is over important; it is too important. It is no ordinary piece of legislation. Forgive me, Sir, my eyes are going bad.

**Sen. Ojah-Maharaj:** Too many night meetings. *[Laughter]*

**Sen. S. Capildeo:** The Senator loves to hear me speak on a microphone? He can come to Fyzabad on Friday and he would hear me again where I speak free-sheet.

In fact, the discipline which this Bill seeks to enunciate has led to the creation of a new word—it is a word that I have just discovered myself in this book. I must read it. It is a brand new word—perhaps Sen. Ojah-Maharaj might look it up. I quote from page 23:

"The health of the world's ecosystems and the wealth of the world's economies now ebb and flow in tandem."

Do you see the importance of the Bill, Sir?

"The health of the world's ecosystems and the wealth of the world's economies..."

In other words, one can no longer divorce environment from economy. They are linked; they work in tandem.

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"The study of this linkage is the new environmental economics. For brevity's sake, this relationship is referred to as *enomics*..."

And the author goes on to explain in great detail what that is. I do not have the time. I could give Sen. Ojah-Maharaj private lessons later on. *[Interruption]* Join the PNM? That will be the day! In the Senator's dream! He will never see that!

The Bill, therefore, is not that original in concept. If I am permitted, can I go back? I was trying to trace the history from the beginning of the century to the 60s to the 70s.

"By the early 1980s, America's business elite was seeing something new on its own balance sheets and these other marketplace radar screens:..."

They were looking at and seeing on their balance sheets;

"...a need to take a fresh look at the environment-economic nexus."

By the 1980s the American business companies were looking, very seriously, at the environment-economic nexus.

In other words, there was a dawning realization that government and corporate spending on environmental protection and restoration, had the potential to create a mammoth new set of business opportunities, Sen. Mansoor. This piece of legislation has the potential of creating a new set of business opportunities about which there has been a deafening, deadening silence from the other side. They know what they are about. They know what they are going to do. We know too, but we are going to stop it.

Mr. President, we are yet to hear about a new efficiency imperative expediting the greening of the Trinidad and Tobago economy, because make no mistake about it, the environment and the economy are inextricably bound together, but there has been a deafening silence from the other side. They come and say, "Look, this is a piece of legislation to manage the environment". It is far more than that; it goes much deeper than that. It creates a whole range of business opportunities; endless jobs for the boys in this Bill.

We would like to see new economic opportunities being created by increased spending on environmental clean-ups in this country; opportunities for people already in the environmental industry and for an even greater number of outsiders now exploring its potential. We want to see the thing opened up. The Government talks about \$40 million, that is joke money. It should be talking about any amount from \$200 to \$500 million when it comes to the environment. That is the kind of

money the Government should be talking about. What we hear is that the Port of Spain City Council is buying garbage. The Government comes with a bill of this nature and magnitude, and at the same time one is reading about the Port of Spain City Council buying garbage.

As I have been dealing with North America, let me continue because the parallel is there for us to see. Perhaps as many as two million Americans now earn a living in the environmental protection field. It is no secret, Sir, that in this country, there has been a renewed effort for citizens to earn a decent income and living, as far as the environmental agencies are concerned. In America, some \$130 billion is spent annually preserving or restoring the environment of the country. They are spending as much as US \$1.5 trillion—this is what they project they would be spending on the environment over the next decade. Worldwide, it would require two or three times that sum which would be expended. In other words, US \$2 or \$3 trillion worldwide with respect to environment. We come here and the Government talks about TT \$40 million. This is really laughable.

**6.00 p.m.**

“Sums like these cannot help but shape the way an economy (even one as large as that of the United States) operates. Nor can they fail to attract the attention of businesspeople throughout the U.S. economy. By 1991, more than fifty of one hundred Fortune 500 companies surveyed operated divisions of subsidiaries that performed some kind of environmental cleanup function.”

In other words, what we are doing, saying and seeing from this text is that companies which are going to come or which are already resident in Trinidad have within their fold, some kind of division or subsidiary that performs an environmental clean up function. Do we have anything on par to deal with that? Can we deal with these companies that have paid divisions and subsidiaries to see about environment, because environment is now built-in to these corporate entities? I heard absolutely nothing about that.

Let me quote a very damaging paragraph.

“The economic future belongs to companies and countries that green their economies fastest and most completely. This economic transformation is intrinsically bound up with all the key factors now universally recognized as critical to national and corporate economic success: total quality management, increased exports, infrastructure

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investment and renewal, efficiency in manufacture and distribution, leading-edge technology development, entrepreneurial vitality, full life-cycle planning”

Mr. President, we have sold everything we have. We do not own anything again in this country except WASA and that is going soon. When they say that the economic future belongs to companies and countries that green their economies fastest and most completely, what is left for our children to green in this country, when we have sold everything? The snow cone cart and the nuts vendor? Are we going to be forced to plant rice in the swmp to eke out subsistence level? Then we would hear the Minister of Finance get up and say that the labour figures have gone up, 9,000 more persons are employed, when really it is subsistence employment. People are seeking jobs on their own.

What is left for the greening of the Trinidad and Tobago economy for our children and grandchildren when everything has been sold out, lock, stock and barrel? Who is going to speak about total quality management and increased exports? Foreigners would come here and talk about increased exports, infrastructure investment, renewal and efficiency in manufacture and distribution. The Indians have just bought out the steel mill. SEI has just bought out T&TEC. They are the ones who would be coming to do it. Why are we fooling ourselves passing this Environmental Management Bill, 1994? I mean this country is really a joke.

Some years ago I sat here and I applauded the CNG project in my mind. Let me quote.

"Initially, commercial and government fleet vehicles will be the mass market for many of these technologies. A measure passed by the US Senate in early 1992—"

This was about the same time the Minister spoke.

“called for 80 percent of federal and state fleet vehicles, and 70 percent of municipal and commercial vehicles, to be electric or ‘alternative’ powered by the year 2000. The figure for vehicles purchased by the U.S. military that year is to be 90 percent.

Natural gas-powered cars and trucks, especially for utility company, delivery company, and government fleet vehicles, are already an on-road propulsion reality, especially in California. Many car makers...”

What is the reality? PTSC is dead. "Lizard" could be interviewed in the newspaper. It is said that the police service does not have vehicles. Where is the Government's policy for putting CNG in its vehicles? Why must the Government begin with the taxpayer and not with itself? Why does the Government not lead? It cannot lead. It cannot make. There is so much that can be spoken about on this Bill.

My Friend, Dr. Saith, for whom I have the greatest respect—the man is a Chaguanas boy, across the road for the Lion House; he is also a QRC boy—said this is a Trinidad driven Bill. It is like a police car. He said that this had nothing to do with—Sen. Dean listen to this—banks. I quote:

"Another group of international banks, whose charters call for promoting economic growth in underdeveloped parts of the world, have been practising their own variant of going green in recent years. These multidevelopment banks (MDBs) include the World Bank, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, and the European Bank for Reconstruction and Development.

The reason such institutions have seen the green light was summed up neatly in a *Philadelphia Inquirer* headline that appeared recently. "World Bank is trying to undo the damage it helped cause."

Does he understand the meaning of this Bill? The World Bank is trying to undo the damage it helped cause.

"The damage referred to involves all kinds of jumbo, ecologically intrusive projects the World Bank has funded for decades, right through to the present day. A huge dam project in India on the Narmada River is the current *bete noir* of environmental critics of the Bank, which dispenses \$20 billion in loan largesse to developing countries each year."

The Government cannot tell me that this is a Trinidad driven Bill. This is World Bank, IADB and all those international banks that are trying to undo the damage they did. This is what this Bill is about. [*Interruption*] Even Sen. Barrack is giving the Government hell now.

Apart from the World Bank undoing the damage it did,

"A great many other U.S.-based environmental cleanup companies have penetrated foreign markets.

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Selling American green goods (environmental services and pollution control equipment) abroad is, in fact, already a major element of the United States international trade picture."

Deafening silence! I mean there is nothing at all. It is big business we are talking about here.

"Such trade, in turn, is of increasing relevance to this country's overall economic well-being, as we move from a domestic-oriented economy to one far more integrated into a larger international economic order. Just between 1986 and 1992, exports of American-made manufactured goods jumped 90 percent. Without this increase, the nation's recession would have been much deeper."

**6.10 p.m.**

"In a report prepared by the International Trade Administration of the U.S. Trade Department of Commerce, it was estimated that by 1990, though most green goods were still being produced domestically by the world's polluting nations, as much as \$50 *billion* worth of these services and equipment were being traded among nations. American firms, stated this report, were getting a hefty \$3—\$6 billion worth of this annual international commerce."

And we have silence from the other side. They are not even commenting on the impact of this part of the Bill.

"Even in the short time since the report was issued, there has been an enormous jump in actual or proposed environmental spending around the world. Taiwan's multibillion-dollar national infrastructure upgrade during the 1990s,...

...Mexico in 1992 to spend US \$4 billion on air pollution control..."

and the people of Caroni eat, sleep and drink soot and ash. Mr. President, you will remember that since 1956 bills were debated here about soot and ash in Caroni.

"The World Bank gave substance to the air cleanup part of this programme by approving a \$228 million loan to Mexico..."

Spain, Germany, the old Soviet Block, Argentina, Brazil, Chile, with

"The \$3 trillion to \$4 trillion cited earlier as an estimate of total worldwide spending on environmental cleanup during the 1990s may thus well turn out to be an underestimate. And quite possibly a massive one.

The congressional Office of Technology Assessment in 1992 projected that the worldwide projected environmental cleanup expenditures would 'soon' reach \$300 billion per annum."

There is money in this Bill. *[Interruption]* They must tell me who. They are negotiating this Bill. We tell them we would like transparency and parliamentary control of every aspect of this piece of legislation.

There is so much we can go to. On the question of health, on a comparative basis with the United States, we do not have any figures, no information, nothing at all in this country. We in the Senate operate totally in the dark at all times. For example, the figure for breathing ailments alone in America for one year is \$40 billion. How much is it in Trinidad and Tobago? How do they quantify the suffering of the people of Chaguanas, Caroni, Claxton Bay, Beetham and even Woodbrook where the soot and ash are found? How do they quantify that? The cost of treatment of lead poisoning alone in the United States is US \$2 billion. *[Interruption]* That is the best run quarry.

Food production. I have to rush this. There is so much we can speak about on this Bill. What do we know about the effects of the chemical pesticides? *[Interruption]* At least I read, and it is quite apparent that you people across there cannot even read. They do not even read. *[Interruption]* It is better than copying legislation and bringing it here.

The effect of chemical pesticides and herbicides on the health of the land and the people who farm it, is causing a mini revolution—more than one-tenth of the roughly 300 pesticides used in crops. We have no information here. We do not know what is happening. What is the total cost to the health of the average Trinidadian through the use of pesticides in agriculture? We do not know. Of course, we do not know who eventually will be responsible for that section of the Environmental Management Bill. *[Interruption]* The Minister? The Minister has what? General Policy.

We come now to the real meat of the subject. Again, there is silence, but this Bill could be the precursor for taxing poor people in this country—in a roundabout manner. They put the Bill into operation, start to enforce the terms, the people do not comply, and then they start to tax them. Instead of buying the

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garbage, the Government would tax people for putting it out; tax them with increased rates for water; tax them by increasing electricity rates and go down the line, using the Bill as the basis for increased direct taxation. Again, silence.

There are so many aspects of this Bill that I can deal with but I do not have the time. There is one point I would like to go to immediately. One thing that is troubling my mind. That is the one which sets up the courts. This commission will be a superior court of record.

#### PROCEDURAL MOTION

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr. President, I beg to move that the sitting of the Senate do continue until the end of the very interesting contribution of the Senator.

*Question put and agreed to.*

#### ENVIRONMENTAL MANAGEMENT BILL

**Mr. President:** In order that I will not interrupt you again, I know you said that you needed an hour, your normal time plus your extended time will expire at 6.40 p.m.

**Sen. S. Capildeo:** I will not expire at that time, but I will cease.

**Mr. President:** I hope not, for your sake.

**Sen. S. Capildeo:** From the reaction I am getting, I know some people on that side would dearly wish that, but I promise them I will not go so easily.

Let us come to a very serious topic. This commission shall be a superior court of record. That is no joke business. From the time one starts to interfere—and I use the word "interfere" in its most catholic sense, its broadest sense—with the concept of justice, one is opening a Pandora's box and touching a hornet's nest that one cannot control. Already we have lost control of the judicial system in this country and I do not care what the hon. Attorney General says—it has collapsed.

I repeat, from the time one begins to interfere with the concept of justice without being very careful about it, one is opening a Pandora's box and touching a hornet's nest and we will get stung in the tail.

**6.20 p.m.**

According to section 99 onwards of the Constitution and I am paraphrasing because of the time—the High Court shall be a superior court of record. The

Court of Appeal shall be the superior court of record. The Chief Justice shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. There shall be a Judicial and Legal Service Commission. The Commission shall comprise of certain people and that Commission will appoint judges. I said I wanted to take this Bill out of its trite ordinariness.

**Sen. Dr. Saith:** What about the Industrial Court?

**Sen. S. Capildeo:** The building has collapsed, the court has collapsed and you are asking me about the Industrial Court! Sen. Daly, tell them about that. The Industrial Court is a disgrace! It has crashed! It is worse than the High Court. We have three judicial systems—and I am glad they raised the Industrial Court—one, the High Court and the Appeal Court, the other; the Industrial Court; the third, the Magisterates' Courts; all are in a state of collapse and they are creating another one. What bothers me is that there is the Judicial and Legal Service Commission appointing judges, but here in this Bill:

"The Chairman and Deputy Chairman of the Commission shall each be an attorney-at-law of not less than ten years standing,..."

Between you and me that does not say anything. *[Laughter]* You know I do not mince my words.

"...shall be appointed by the President." We all know when the President opened the Parliament he spoke about the environment, maybe he was looking at this Bill, I do not know. But I do not know if he saw clause 82 and I do not know if he wants that burden. I do not think the President of the Republic of Trinidad and Tobago should be saddled with the burden of choosing the Chairman and the Deputy Chairman.

**Sen. W. Mark:** But that is Cabinet.

**Sen. S. Capildeo:** I know it is Cabinet. I am coming to that. When things go wrong they would say that the President appointed the person. *[Interruption]* I do not think you were here when I was making the suggestion. I said it openly and I am going to repeat it again. This Bill will open the door to immense corruption. Huge corporations which are capable of destroying Trinidad and Tobago are being brought in here. *[Interruption]* I am not saying do not pass it. I am saying have adequate protection and the adequate protection is this Parliament.

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The Government is scared of its responsibility. They want to palm it off. The members of the commission would be appointed by the President—in reality the Cabinet—and when something goes wrong and fingers are pointed and accusations made—I would bring another book on bribes, maybe the third edition on bribes. When I start to recite the names of Trinidad and Tobago citizens again, they would say, "you know we should have really thought about that".

The point I am making is, Sir, why set up another judicial system when they cannot run the ones they have? Do not tell me that because they cannot run the one they have that they are going to set up a parallel one. That cannot be the argument. It cannot be the argument that to get away from the present chaos in the existing judicial system they are going to set up another judicial system. That cannot be the argument—that they want all responsibility within this small grouping—because again, one is coming back to the concept of justice, and the concept of justice is far wider than an Environmental Management Bill.

The concept of justice is the right of the citizen to go to the courts of the land to have his rights declared. No matter what one puts here; no matter how it is framed here, what happens to the judicial structure if one feels that he is being violated by this Environmental Management Commission?

I do not know who advised on the drafting of this Bill, because it talks about:

"A Registrar of the Commission and such other officers, clerks and employees as may be required to carry out the business of the Commission shall be appointed in the manner authorised by law."

We have just had the embarrassing situation in this country where a man was hanged. A man was hanged, his matter was before the Appeal Court; the Registrar was a key figure and he cannot defend himself because he cannot talk. Now there is another Registrar here? Assume for purposes of argument that there is a Bhopal type of disaster in this country; and assume the reality of the PNM takes hold and the true colours come out, and assume the matter is settled to the discomfort of citizens of this country—to which court? This court? With the same Registrar? With the same sort of thing which happened with that Registrar? Do you see the problem one would be facing? There is a lack of credibility where the Government is concerned and to get around that lack of credibility there has to be transparency. To have the transparency Sen. Draper will have to go back to his drafting books, not only the public service, but even the laws regarding this Parliament too.

We need constitutional reform, Sir. We need it badly in this country. I am completely and implacably opposed to the creation of another judicial system in this country with the present mess that we have in the Judiciary. I am implacably opposed to it. I say clean out what we have first before anything further is implemented.

What are the criteria for these judges? Apart from serving not less than ten years, what other criteria are we looking at for chairman and deputy chairman? They have some kind of criteria for the other people. They probably have experience in environmental issues, engineering, natural sciences and social sciences? Again, what does that mean?

This Bill is fraught with danger, it is open to all kinds of problems. Where are the regulations spoken about? Where are the regulations which are the linchpin of this piece of legislation? Why can we not see the regulations? What is this about bringing Regulations two years later? The time that they spent to draft the Bill, why could the regulations not have been drafted and put in at the same time?

Quite frankly I do not see how we are going to operate this Bill? Where is the manpower to come from? Where are the qualified people in this country to operate this Bill? Are we not going to have to rely on the same experts who are coming here to con us? Is that not what is going to take place? The same people whose companies have corporate divisions dealing with environment, are they not the same people we are going to be retaining to advise us on this? Where are we going? We just do not have the talent.

**6.30 p.m.**

Let me close, I have ten more minutes. I wanted to get that information about the courts because if a disaster happens under the operations of this Bill and a citizen is not satisfied that he can get justice because of corruption, then the Government is begging for a third revolution. That is what it will be doing.

Let me end with a new quotation that fits in aptly. It says:

"What, then, are the economic policies of choice and (given current fiscal restraints) of necessity for the Clinton-Gore administration? What are the new economic policies this administration did begin pursuing, albeit rather tepidly, during its first months in office? They can be summed up in four words: cooperation, recognition, encouragement, and jawboning."

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The Bill is old talk, and in the words, as Sen. W. Mark would tell you, of the late John Maynard Keynes, it does not matter what they do, how they do it, in the long run we are all dead under this PNM Government.

I thank you, Sir.

**ADJOURNMENT**

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr. President, I beg to move that the Senate do now adjourn to Tuesday, January 17, 1995 at 1.30 p.m.

**Mr. President:** Before putting the question I would just like to indicate to Senators that the Clerk of the Senate received a communication from the Chairman of the Tobago House of Assembly dated December 15, 1994, only last week, indicating that the Assembly by resolution had directed Season's Greetings for a blessed Christmas and a Happy New Year be extended to the President and other Members of the Senate. This was taken at a meeting held on Thursday, December 15, 1994.

**Sen. Capildeo:** Mr. President, you can send our reply by BWIA.

**Mr. President:** It would not reach. I would ask the Clerk to send a letter of thanks and to reciprocate the greetings for the New Year on behalf of Senators.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.32 p.m.*