

Leave of Absence

Tuesday, December 02, 1997

SENATE

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The Senate met at 1.30 p.m.

PRAYERS

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

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, leave has been granted to Sen. Sadiq Baksh to be absent from sittings of the Senate during the period December 2 to December 10, 1997. Leave has also been granted to Sen. Wade Mark to be absent from today's sitting.

SENATORS' APPOINTMENT

Mr. Vice-President: I have been informed by His Excellency, the Acting President that he has appointed Mr. Dave Cowie to be a temporary Senator with effect from December 2, 1997 and continuing during the period that Sen. Ganace Ramdial, President of the Senate has temporarily vacated his office as Senator to act as President of the Republic of Trinidad and Tobago.

Further advice has been received that His Excellency, the Acting President has appointed Dr. John Bharath and Mr. Dennis Nancoo to be temporary Senators with effect from December 2, 1997 and continuing.

OATH OF ALLEGIANCE

Mr. Vice-President: Three Senators are required to take the Oath at this stage. I ask leave to defer Mr. Dave Cowie for later in the sitting.

Senators Dennis Nancoo and John Bharath took and subscribed the Oath of Allegiance as required by law.

**VICTOR L. CAMPBELL
(DEATH OF)**

Mr. Vice-President: Hon. Senators, at the last sitting of the Senate we were informed of the passing of a former Member of Parliament, Mr. Victor L. Campbell. On the last occasion the tight schedule did not afford us the opportunity to pay due recognition to his passing. I take this opportunity on my behalf and all Members of the Senate to extend our sympathy to the relatives of Mr. Campbell.

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I invite the Leader of Government Business, the Leader of the Opposition Bench and the Independent Senators to do so.

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Vice-President, on behalf of the Government of Trinidad and Tobago and on my own behalf, I wish to pay tribute to Mr. Victor L. Campbell, former Member of Parliament and government minister who died at the age of 75 years.

Mr. Campbell lived and died in the constituency of Nariva/Mayaro which he represented for over a quarter of a century. During the period 1956—1981, Mr. Campbell served this country in a variety of capacities. He held several ministerial positions and was parliamentary secretary on three separate occasions. He started off his political career as Parliamentary Secretary in the Ministry of Works and Communications in 1956—1958. From 1958—1959 he was Parliamentary Secretary in the Ministry of Agriculture and from 1961 to 1964, again, he was Parliamentary Secretary in the Ministry of Works.

He was also Minister without portfolio in the Ministry of Development from 1964—1966. He was elevated again to the position of Minister of Works and Transport, and thereafter, Minister of National Security. He retired from active politics in 1981 and continued serving his constituency of Nariva/Mayaro until his death. His testimony to the people of Nariva/Mayaro is legendary and is greatly loved by the people there.

On behalf of the Government, I convey condolences to the family of Mr. Victor Campbell and the people of Nariva/Mayaro.

Thank you.

1.40 p.m.

Sen. Nafeesa Mohammed: Mr. Vice-President, today we mourn the death of yet another former parliamentarian and government minister. The late Victor Campbell was a veteran politician who served this country in several capacities.

He was a stalwart of the People's National Movement and served as a Member of Parliament for Nariva/Mayaro from 1956—1961. Between 1957 and 1959, he served as the Parliamentary Secretary to the Minister of Agriculture, Land and Fisheries, and from 1959—1961, as Parliamentary Secretary to the Minister of Finance.

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Between the period 1961 and 1981, Mr. Victor Campbell continued to serve as a Member of Parliament for Ortoire/Mayaro. He was, in fact, the longest serving Minister of Works in this country, and also served as Minister of National Security until 1976.

Mr. Victor Campbell will long be remembered for his very simple, humble and down-to-earth approach to life. He was an approachable and affable gentleman. He was known to be a grassroots person and served his constituents, and indeed our country, well. One of his colleagues who served with him in Cabinet in the early years of his public life, former government minister, Mr. Kamaluddin Mohammed, said that one of Mr. Campbell's greatest qualities was punctuality. He would leave Mayaro and arrive at Cabinet meetings in Port of Spain before many of those who lived nearby.

To Mr. Campbell's bereaved family, we, the People's National Movement, extend heartfelt condolences. We say, "From God we came, and to God is our eventual return".

Sen. Prof. John Spence: Mr. Vice-President, on behalf of the Independent Senators, I would like to associate myself with the remarks of my colleagues in respect of Mr. Victor Campbell. In a sense, I believe that one can say that an era is drawing to a close. I note that he was a Member of the Legislative Council. There cannot be many left now who have served on the Legislative Council and also in Parliament. I think it is clear that here was a man who served his country well and whose path from pre-Independence days to Independence days was able to bridge the gap and still make an impact.

We extend our sympathy to his family and would like to say that we mourn his passing with our colleagues.

CANE FARMERS INCORPORATION AND CESS (AMDT.) BILL

Bill to amend the Cane Farmers Incorporation and Cess Ordinance, 1961, brought from the House of Representatives [*The Minister of Finance and Minister of Tourism*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate.
[*Hon. B. Kuei Tung*]

Question put and agreed to.

Petition

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PETITION
Massage Therapy Association

The Minister of Energy and Energy Industries (Sen. The Hon. Finbar Gangar): Mr. Vice-President, I have the honour to present the petition on behalf of the Massage Therapy Association of Trinidad and Tobago.

I now ask that the Clerk be permitted to read the petition and that the promoters be allowed to proceed.

Petition read.

Question put and agreed to, That the promoters be allowed to proceed.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1996. [*The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Project Development Services Limited for the year ended December 31, 1992. [*Hon. B. Kuei Tung*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Project Development Services Limited for the year ended December 31, 1993. [*Hon. B. Kuei Tung*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Project Development Services Limited for the year ended December 31, 1994. [*Hon. B. Kuei Tung*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Project Development Services Limited for the year ended December 31, 1995. [*Hon. B. Kuei Tung*]
6. Financial Statements for the Trinidad and Tobago Free Zones Company Limited for the year ended December 31, 1996. [*Hon. B. Kuei Tung*]

NATIONAL TRUST (AMDT.) BILL

Order for second reading read.

The Minister of Community Development, Culture and Women's Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. Vice-President, I beg to move,

That a Bill to amend the National Trust of Trinidad and Tobago Act, 1991 be read a second time.

Mr. Vice-President, the purpose of the Bill is to effect miscellaneous amendments to the National Trust Act, 1991, which was passed in both Houses of Parliament and assented to on August 14, 1991 but was not proclaimed. The present amendments are intended to fill various *lacunae* in the law, and thus, complete the Act prior to its proclamation.

By way of history, in 1991 the NAR government piloted this piece of legislation to protect the country's national and cultural heritage. We are all aware of our country's rich and varied national heritage which is vulnerable to destruction unless protected. This heritage includes works of nature such as our swamps and wetlands; wild life; our forests; rivers; streams; exotic trees; parks; playing fields; and so forth. It also includes works of man, that is our built heritage; tropical architecture; monuments of historical antiquity; and our outstanding architectural creations which were created by our past and present inhabitants. It also includes sites of historical significance, and structures which have played a part in our national development which all need to be protected.

I would like to name some of our special monuments of history which need to be protected, one is the Banwarie Trace site. Several years ago, the government moved to acquire this site for the nation. It is perhaps one of the most important archaeological sites in the eastern Caribbean. The decision to acquire this has not yet been implemented because of the lack of legislation, therefore, adequate steps to protect the site cannot be undertaken. Two other monuments which need special mention are one at Point Gourde and the other, the Scarborough harbour which are two examples of sites and objects which are in danger of destruction and/or spoliation.

All our national and cultural heritage which need to be protected are in danger of destruction either by deterioration and disappearance with the passage of time, or attempts by individuals to profit by destroying or exporting items, or claiming items for private gain. These activities, of course, impoverish the society for personal gain. There are items also in private ownership which may be damaged, lost, destroyed, improperly maintained or improperly secured either through ignorance or lack of resources or lack of concern. There are items, too, which represent loss of our prehistorical past through the activities of knowledgeable curios-seeking visitors who sometimes come in the guise of tourists. Some of them are very knowledgeable, are professionals and know exactly which sites to go to and take these artefacts as curios. They remove to foreign lands precious pieces of pottery, stone, other materials and artefacts that would otherwise accurately

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reveal our Amerindian history. There is also the removal of precious items of nature, or items of our past history from below the sea.

Mr. Vice-President, all these dangers to our assets which constitute our national or cultural heritage can be averted if they are protected by legislation. Sadly, to this day, our national heritage remains unprotected. We have signed certain international conventions which we need to address. For example, Trinidad and Tobago became a party to the 1970 UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property and became a party to this convention on August 17, 1989. It deposited an instrument of ratification with the Director-General of UNESCO in accordance with Article 19 of the convention. Legislation was therefore necessary to implement the 1970 UNESCO Convention referred to. For all these reasons, but moreso, for the protection of a national and cultural heritage, the National Trust Act is extremely important.

As an independent state, it is the responsibility of the state to ensure that the wide variety of natural and cultural objects which constitute the patrimony of our people are preserved, protected and kept in trust for the enjoyment of all our people and for future generations, but the National Trust Act of 1991 was not proclaimed. The subsequent government, the People's National Movement, which was in office from 1991—1995 did not get around to proclaiming the Act. In 1994, still by way of history, a committee was appointed in March of that year to review the Act and make recommendations. It submitted its recommendations in May 1995, more than a year later, but they were not acted upon. They were not studied by the Cabinet of the day and the Act remained unproclaimed.

When this Government came into office, I, as Minister of Community Development, Culture and Women's Affairs, was inundated with requests from individuals and various interest groups to have the Act proclaimed. As a responsible Government, we cannot but be guided by the concerns of our people and by our duty which is in this regard, to protect and preserve our national and cultural heritage.

Mr. Vice-President, the Act of 1991 defines those items which should be protected. One such group of items is called property of interest which is any monument, fossil, place or site of natural beauty, national, historical, scientific or archaeological interest. A monument is defined as any building, structure or other work of man or nature, whether above or below the surface of land, or the floor of the sea of national, architectural, aesthetic or historical interest.

The main functions of the National Trust of Trinidad and Tobago are to acquire property, that is property which it considers to be appropriate in filling the criteria of items. It is also supposed to preserve land, that is retaining its natural features, conserving animal and plant life and preserving property other than lands and buildings. It is also responsible for providing access and enjoyment to the public of these items which are listed and are in its control. The National Trust of Trinidad and Tobago encourages research into property of interest including associated plant or marine life and it is also responsible for making the public aware of the value and beauty of the heritage of Trinidad and Tobago. Finally, it advises government on conservation and preservation of property which is of interest, and other related matters.

The 1991 Act gives the National Trust of Trinidad and Tobago certain powers. It has powers to raise money either through borrowing, soliciting or through fees. The Act also gives power to operate the business of the trust to employ either on a temporary or permanent basis professional, clerical and technical services. The trust also has the power to impose charges for viewing of the artefacts and it administrates the property with which it is vested. The National Trust of Trinidad and Tobago also improves and preserves the amenities. So it has responsibilities of acquiring, it can accept property and enter into contracts. All property, of course, is for public purpose. In fact, one of its responsibilities is to maintain the items and artefacts under its guardianship.

2.05 p.m.

Mr. Vice-President, there are certain restrictions where buildings or structures are vested in the trust, the trust cannot sell or dispose of those items, except under certain conditions; one being prior agreement with the owner or purchaser. The trust cannot sell, demise, exchange or mortgage, except with prior approval of the Minister and, by extension, the Cabinet.

The responsibilities for listing are also to be carried out with the approval of the Minister. The preparation of a list of buildings and notation of what can be preserved and what cannot be preserved may have to be changed or altered. It also prepares a list of items of interest which are not buildings. It can also revoke or revise lists. Of course, all of these can be done with the approval of the Minister and the Cabinet. These changes and lists are to be published in the *Gazette*.

The Act also makes provision for persons who are aggrieved by the listing of any property, and there are mechanisms and procedures for those persons to

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undertake if they feel aggrieved. The trust also cannot become the guardian of any monument if it is occupied as a dwelling house. Unless the written approval of the owner/occupier of the dwelling house is achieved, the owner retains the right to monuments under the guardianship of the trust. If the trust lists a monument for its guardianship, the ownership of the article remains with the owner. Once the trust becomes the guardian, it shall maintain the monument, it shall have access to the monument, it shall carry out work on the monument. Expenses in this regard are to be met by the funds from the trust.

The concept of maintenance of a monument includes—and this depends on what it is—fencing, repairing or recovering, or doing anything that is required for the purpose of repairing, protecting from decay and damage.

The owner is defined as a person who has any interest, even limited interest, in a monument and constitutes the trust as guardian of the monument. The Act also provides and gives the trust power to enter lands. Again, there is a procedure in place; the person is given written authority by the trust, the trust must give reasonable notice in writing to the occupier of its intention to enter, the trust may then enter, investigate or carry out evacuations if the trust has reason to believe that the land contains property of interest. Again, specific reasonable notice must be given. This is not in the context of if the monument is a dwelling house, except, again, with the consent of the occupier. The trust is liable for all damages if these are not maintained.

Section 12 of the Act identifies the composition of the council which would guide the trust. This is one of the areas which has given rise to the greatest contention which is addressed in the Bill, but I will come to that in a while. Section 13 of the Act identifies the committees of the council. Section 14 identifies the rules of the trust which must be approved by the Minister. Section 15 of the Act identifies the need to declare interest by the council members, if that is applicable. Sections 18—20 exempt the trust from certain taxes and duties.

Section 24 identifies the procedures for change in ownership or possession of a property. Mr. Vice-President, we said that even though the trust becomes the guardian of a property, the ownership of it remains with the owner. Therefore, if there is change in ownership there are procedures for this.

There are also provisions for disclosing the whereabouts of items, monuments or property. There are procedures in section 26 for protecting listed property. There are procedures in section 27 for damaging or destroying listed property.

There are fines and penalties for wilful destruction of properties which are listed. The Act also provides for the recovery and disposal of fines and it also outlines the accounting procedures required through annual reports. Section 30 outlines the regulations of the trust.

There have been certain problems identified with the original Act. The more simple of those problems are typographical and editing errors. These are taken care of in the Bill.

Of course, clause 1 of the Bill cites the name of the Bill:

“The National Trust of Trinidad and Tobago (Amdt.) Act, 1997.”

Clause 2 of the Bill deals with the interpretation:

“‘the Act’ means the National Trust of Trinidad and Tobago Act, 1991.”

Clause 3 of the Bill deals with the typographical errors.

“Section 8 of the Act is amended as follows:

(a) in subsection (1)

(i) by deleting the words ‘29’ and substituting the words ‘30’;

(ii) in paragraph (b), by deleting the word ‘list’ and substituting the word ‘lists’;

(b) in subsection (3), by inserting after the words ‘all such lists’, the words ‘and shall make that register’;”

All these, Mr. Vice-President, are basically correcting typographical or editorial errors.

There is also improvement in the wording and the structure of subsections. This is to be found, again, in section 8(5) which is reflected in clause 3 of the Bill. In subsection (5) which has to do with the listing of property, I would call that improvement in the wording and no real change in the meaning between the Bill and the Act. In subsection (5) a subsequent subsection (b) is added. It is inserted by modifying the wording and separating it from the original. Again, more of a tidying up of the wording of the section.

2.15 p.m.

Mr. Vice-President, the listings are clearly stated and provision is made as follows:

- “(b) by posting such notice conspicuously on the said land and by publishing the same in at least three issues of a daily newspaper circulating in Trinidad and Tobago, where nobody is in possession and the owner is not known.”

Section 9 of the Act is repealed and substituted. This has to do with appeal against listing; this is where an owner is aggrieved by the listing. This new substitution contains, I would think, improved wording and a restructuring of the subsections, to make it clearer. Section 9(1) of clause 4 states:

- “9 (1) A person aggrieved by the listing of any property may appeal to the Minister in writing against the listing setting out the grounds of his appeal.
- (2) Where an appeal is made to the Minister under subsection (1), he may dismiss the appeal or direct the Trust to revoke the listing, and the Trust shall comply with any direction given to it by the Minister under this subsection.
- (3) Where the Minister dismisses an appeal made to him under subsection (1), the person aggrieved by the listing may, by originating summons served on the Trust and the Minister, appeal to a Judge in Chambers who may—
- (a) pending a decision in the matter, make such interim order as he sees fit, to preserve the respective interest...”

Mr. Vice-President, this sets out the procedure. It continues:

“...of the appellant, the Trust and the Minister in this matter;
or

- (b) dismiss the appeal or order that the listing be revoked or amended.
- (4) The Judge’s Order amending or revoking a listing shall be deemed to be a list for the purposes of section 8, except that no notice shall be required to be served under the provisions of section 8(5) on the parties to the appeal.” *[Interruption]*

Sen. Mahabir-Wyatt: Mr. Vice-President, before the Minister finishes, I wonder if she could explain something. I am getting a bit confused about the different terms she used. She referred to listing, acquiring and guardianship of. I am just wondering if she could distinguish for me the difference between the listing and guardianship and the listing and acquiring, because it did not come through very clearly in her opening statement. I have the Act here but I still cannot relate what she is saying to it. I wonder if she could make it a little clearer. Thank you.

Sen. Dr. The Hon. D. Phillips: Mr. Vice-President, my understanding of listing is like the trust, based on the criteria identified as properties of interest, or monuments; that is, any monument or property of interest is any monument, fossil, place or site of natural beauty and so forth. A monument is any building, structure or other work of man or nature by the land or in the sea and so forth, identified by the trust as being so. Once these buildings, items or monuments have been identified they are listed. This is my understanding. I am open for correction.
[Interruption]

Sen. Mahabir-Wyatt: Mr. Vice-President, I do understand that, I have got the Act and I have read that, I am trying to understand from the Minister's explanation, whether she is acquiring because the Act does say listing and acquiring under section 5(a). The Minister has also referred to guardianship and acquiring as though they are identical, and I am just wondering if this is what she meant or, if there is a distinction between a listing and guardianship, and listing and acquiring and guardianship. I just did not know what the Minister had intended for the concept that we are doing, whether it was all three or just one or two.

Sen. Dr. The Hon. D. Phillips: Let me refer to section 5 of the Act of 1991 which says:

“The Trust is established for the purpose of carrying out the functions given to it in this Act, which include—

- (a) listing and acquiring such property of interest as the Trust considers appropriate;”

Sen. Prof. Spence: *[Inaudible]*

Sen. Dr. The Hon. D. Phillips: In my opinion, acquiring does not have the meaning of ownership; acquiring for exercising guardianship over those items. It continues:

- “(b) permanently preserving lands that are property of interest...
- (c) preserving, maintaining, repairing and servicing or, arranging for the preservation...” *[Interruption]*

Sen. Mahabir-Wyatt: Obviously, the Minister needs to be guided on this because there are other provisions later on which talk about the Trust may acquire, obtain purchase and so forth. It was in a particular context of which she was talking in terms of the guardianship, but, obviously, we need legal guidance on this.

Sen. Dr. The Hon. D. Phillips: Mr. Vice-President, these would be handled in the winding-up after we have been able to think about it a little more and get some advice.

Mr. Vice-President, we are back on the Bill looking at clause 5 which amends section 10 of the Act, which again has to do with this notion of guardianship. It says:

“The Trust shall not consent to become guardian of any monument that is occupied as a dwelling-house unless—”

So that there is a special concern for items which are listed and identified as being of national interest but occupied as dwelling-houses. There is provision in the Bill—not in the Act—that unless arrangements satisfactory to the trust are made for the continued occupation of the property as a residence by the owner, or the owner agrees, in writing, to give the trust vacant possession of the property.

2.25 p.m.

The Bill also amends section 12 of the Act and, as I indicated before, this section of the Act has been the most contentious, and there are several amendments to this section—I think there are four.

Subsection (2) of section 12 of the Act is amended by changing the composition of the council. This section deals with the size and composition of the council. In the original Act, the council consisted of nine members—four were appointed, and five were elected. The Bill attempts to correct this by increasing the number of appointed officers to six. We would then have six appointed officers

and five elected. This has to do with the larger responsibility of the Government in its role of protecting and enhancing the items identified to be held by the trust, and having those items available for preservation and the enjoyment of the public. It also has to do with the wide powers given to the trust for entering and for listing and maintaining guardianship over these items. So, it has been found necessary to alter the size and composition of the council from nine members in the original Act to 11 members, which is provided for by the Bill.

The Bill also identifies the membership of the council. In the Act, that membership has not been specified. Section 12(4) states:

“The Minister shall appoint the appointed members of the Council, three of whom shall be members of associations, agencies or institutions which have among their stated objects, objects which are similar to the purposes of the Trust as specified in section 5”

This was not present in the original Act. So, members of that council—at least three of them—must be from associations, agencies or institutions—and this, of course, includes Government institutions which have objectives similar to those of the trust.

The Bill also identifies specifically the need for representation of Tobago among those members who are appointed to the council. Tobago's interest will be taken care of. Of course, it does not limit Tobago's membership on the council to one person, but it assures that one person appointed by the Minister is from Tobago.

Again, clause 6 which amends section 12 identifies that the chairman, deputy chairman and secretary be appointed by the Minister. It also increases the quorum from five members to six members, and it also notes that decisions of the council are not taken by a simple majority, but by a two-thirds majority. A two-thirds majority is necessary for decisions to be taken. That is one aspect of section 12 of the original Act which is now amended in this Bill.

The original Act is silent on the resignation and removal of council members, and the Bill addresses this matter. Resignation and removal of council members is addressed in a new section 12A where the Act is amended by inserting immediately after section 12 a new section 12A which states:

“A member of the Council, other than the Chairman, may resign his office by instrument in writing addressed to the Minister through the Chairman who shall cause it to be forwarded to the Minister.”

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So, 12A(1), (2) and (3) deal with the procedures for resignation or removal of members, which was not present in the original Act.

The Bill also addresses the need for a clear distinction to be made between the sub-committees of the trust, and advisory committees of experts. The Bill allows the trust to create sub-committees to deal with its work, as well as to appoint committees of experts whose members are not necessarily members of the council. This is addressed in clause 8 of the Bill.

The Bill also addresses the need for exemption from personal liability of council members, and clause 10 amends section 18 of the Act where the Trust is exempt from custom duties, stamp duties and value added tax, but in addition, (b) is added where the trust is also exempt from value added taxes and other taxes on works of art originating in Trinidad and Tobago.

The Bill carries out certain kinds of adjustments and *lacunae* in the original Act. There is no serious—in my view—modification of the Act, except that some clarity is introduced, and the composition of the council is looked at very seriously. Some of the associations, agencies and institutions which are related, and which, of course, would have been influential in both the creation of the Act and the modifications identified in the Bill are the Citizens for Conservation, the Archaeological Committee of Trinidad and Tobago, the Institute of Architects, and some of the Government agencies are the National Museum and Art Gallery, National Archives of Trinidad and Tobago, the Historical Restoration Unit of the Ministry of Works and Transport, and others.

Mr. Vice-President, although the Act was passed by a three-fifths majority, because certain provisions of the Act were not in keeping with the Constitution, it is not envisaged that the Bill requires this arrangement. The Bill can be passed by a simple majority. I had a note on that, but I cannot find it now.

Mr. Vice-President, those are the provisions of the Bill. They are meant to enhance the Act and allow its proclamation. As has been indicated, this is an extremely important piece of legislation, and there is indeed need to have this legislation proclaimed so that our national and cultural heritage, which is now not being protected, and which is slipping away—if only because of deterioration—will be available for the people of Trinidad and Tobago and future generations.

Sen. Beckles: Mr. President, I would like to ask the Minister a question. In relation to section 9, could you indicate whether there is any time-frame within which the Minister would have to communicate with the aggrieved person if the appeal is dismissed?

Sen. Dr. The Hon. D. Phillips: I will look at the regulations. Mr. Vice-President, I beg to move.

Mr. Vice-President: Hon. Senators, before proposing the question for debate, I would like to go back to the point we were at earlier on today when we sought leave to defer the swearing in of the third temporary Senator. I now ask you to stand.

OATH OF ALLEGIANCE

Sen. Dave Cowie took and subscribed the Oath of Allegiance as required by law.

NATIONAL TRUST (AMDT.) BILL

Question proposed.

Sen. Nafeesa Mohammed: Mr. Vice-President, it is indeed a privilege for me to participate in this very historic debate on the National Trust of Trinidad and Tobago (Amdt.) Bill, 1997 this afternoon. Yesterday, I think it was, I read in the newspaper that the Minister of Community Development, Culture and Women's Affairs indicated that she expected this debate to be a short debate. She did not anticipate any kind of lengthy discussions on this particular piece of legislation. I can get the relevant newspaper clipping for the record. Actually, it is today's newspaper.

2.40 p.m.

In fact, we might have been dealing with another very controversial piece of legislation which deals with the Judiciary. I am surprised that the hon. Minister—if, in fact, she has made those comments—feels that this would be such a straightforward matter. This piece of legislation which, as the Minister pointed out, seeks to effect certain amendments to the 1991 National Trust Act, raises several matters. It is indeed a very important piece of legislation and we on this side do not wish to score political points with respect to this very important matter. It is regrettable that in the Minister's contribution when piloting the Bill, that she sought to cast blame with respect to this piece of legislation being proclaimed.

Mr. Vice-President, I merely wish to point out that we on this side certainly appreciate the need to preserve and protect our cultural and national heritage for both the present and future generations and, we certainly support the idea of the setting up of a national trust. However, at the end of the day, whatever legislation we pass here, we would like to be sure that this legislation will, in fact, work. The

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hon. Minister went back a bit on the history of this Bill and pointed out that it was, in fact, passed in both Houses of Parliament in 1991 and it was assented to in August, 1991.

I wish to take the Minister back a little bit before that time because it was in 1987, I think, that the first Bill was introduced by the then NAR administration and I wish to give credit where credit is due. I think credit has to be given to the former Minister of Sports, Culture and Youth Affairs, Mrs. Jennifer Johnson, for her very persistent approach in dealing with this historic piece of legislation. Because, when the Bill was introduced in 1987, it lapsed. It was reintroduced and it lapsed again. When it came back in the Parliament I think a special select committee was appointed to look at the establishment of a national trust. There were Members of Parliament from the People's National Movement, the Independents and from the then NAR Government; indeed, I believe Prof. Spence might have been a member of the then select committee to look at national trust legislation. Regrettably, the events of 1990 changed the whole parliamentary agenda and face.

Notwithstanding that, the Bill was reintroduced and eventually, in the middle of 1991 the Bill was assented to. From August, 1991 until the Government changed at the end of 1991, that Bill was not proclaimed. During the period of the former PNM administration that Bill was not proclaimed. And it is now two years into this administration and the Bill is still not yet proclaimed and that says something.

Mr. Vice-President, my investigations into this time lapse in terms of the proclamation of this national trust legislation has revealed that there were some very serious concerns raised with respect to the 1991 National Trust Act that was passed from a very practical point of view in terms of its implementation. Before one proclaims legislation, one has to put the necessary infrastructure in place. When one looks at the 1991 Act, the substantive piece of legislation, one would see that this legislation raises some very important matters; it deals with the property rights of the individuals and a balancing act has to be done. I think, perhaps, the greatest concern of all was with respect to the actual operations of the trust and the concern that we have had is that this legislation was seeking to put in place a council which would have been made up primarily of private groups and individuals and which would have had jurisdiction, not just over parks and artefacts, but over buildings as well. We know for a fact that there are several

buildings in the country that are owned by the state and there could have been some very practical problems encountered in that respect.

Mr. Vice-President, when we look at the 1991 Act—as the Minister has pointed out—section 2 defines what is meant by 'property of interest'. It states:

"'property of interest' means any monument and any fossil, place or site of natural beauty or national, historic, scientific or archeological interest."

Section 5 of this 1991 National Trust Act sets out the general purposes of the trust. Again, the hon. Minister went through some of these purposes. Section 5 states:

"The Trust is established for the purpose of carrying out the functions given to it by this Act, which include—

- (a) listing and acquiring such property of interest as the Trust considers appropriate;
- (b) permanently preserving lands that are property of interest and as far as practicable, retaining their natural features and conserving the animal and plant life;
- (c) preserving, maintaining, repairing and servicing or, arranging for the preservation of property of interest other than land and where such property of interest comprises buildings, augmenting the amenities of such buildings and their surroundings;
- (d) making provision for the access to and enjoyment of property of interest by the public;
- (e) encouraging research into property of interest including, where applicable any animal, plant or marine life associated therewith;
- (f) compiling photographic or architectural records of property of interest;"

One sees therefore, that this legislation touches upon several different areas of our national life and, indeed, our national heritage. Because, here we are speaking about buildings, about land and we can even talk about our culture.

Mr. Vice-President, of significance however, is the fact that the 1991 Act dealt to a large extent with property rights. I think, perhaps, this was the reason, more than any, why in 1991 when this Bill was passed in Parliament, it was, in fact,

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passed with a special majority. It required a special majority of three-fifths of all the Members of the House. Here it is today we are seeking to amend this significant piece of legislation that had required a special majority of the Parliament with proposed amendments which the Minister, from what she told us here this afternoon—in her view, can be passed with a simple majority. We on this side certainly have some concerns about whether or not this is so.

When we look, for example, at the proposed amendment in clause 5 of this Bill, one sees that it seeks to amend section 10 of the Act by repealing subsection (2) and substituting a new subsection. Clause 5(2)(a) states:

"arrangements satisfactory to the Trust are made for the continuing occupation of the property as a residence by the owner;"

What about arrangements being made that are satisfactory to the owner? To me, these amendments certainly raise concerns about the ownership and occupation of property. We know we have that fundamental right enshrined in our Constitution and that is the right to property.

So I think this is a matter that we cannot just gloss over lightly and we have to examine whether these amendments can be passed with just a simple majority. If that is the case, I have to ask: Why is this legislation, these amendments, which have taken previous governments so many years to bring into effect, being rushed in a mere matter of one week, to debate this very significant piece of legislation? All of us here received these amendments on Monday last when the Parliament reopened. We have had just one week and I have to ask the question to this Government of so-called consultation: What consultations have taken place with respect to those proposed amendments, if any at all? I have to wonder!

If it is that it requires a constitutional majority, this is a matter in which the public should have been participating. This is a matter for various interest groups that are going to be affected by this legislation. I wonder if these groups have actually seen these amendments? I doubt it very much. The hon. Minister made mention of several groups or related agencies that will have to be with this national trust. There are the Citizens for Conservation, the Archeological Society, architects are involved, the Museum and Art Gallery, National Archives, and the hon. Minister pointed out the Historical Restoration Unit of the Ministry of Works and Transport.

Mr. Vice-President, when we look at the National Trust Act of 1991 and these amendments, one cannot help but wonder about whether there is going to be

overlapping with other agencies and bodies. Is this national trust legislation going to be the umbrella body? This is a very serious concern and I think this concern was raised earlier on in 1991. In our statutes, the laws of Trinidad and Tobago, there is an Act called the Royal Victoria Institute Act under which a board of management operates. The functions of that particular board are set out in Chap. 40:52 at section 6. They deal with flora and fauna, and artefacts, but more specifically, that is the board that governs the operations of our Museum and Art Gallery which is located just above Pembroke Street.

How is this national trust going to relate to the board of management that manages the affairs of our museum? Is there going to be overlapping? What kind of co-ordinating mechanism exists to avoid any kind of duplication of efforts? After all, there will be a question of costs involved, staffing and what have you. If the museum is designated as the body to deal with certain aspects of our national heritage and here it is you are setting up another body to deal with certain aspects of our national heritage; what consideration has been given to ensure that duplication does not take place?

Mr. Vice-President, if my memory serves me right there is—and I am sure we have several professors from the University of the West Indies in the Parliament—or there used to be an archeology centre at the University of the West Indies and they have had some input or, at least they should have some significant input in terms of managing our national heritage. We have the National Archives and indeed the Institute of Marine Affairs; there is also the Town and Country Planning Division that is involved. When one is talking about properties, the Town and Country Planning Division is the division in the Government that has the records and the history of a property. That division will know what is its position with respect to whatever properties, whether they are going to be lifted, acquired or what have you.

We know every year in Tobago that there is the wonderful Tobago Heritage Festival. We see, as the Minister pointed out, that some provision is being made for Tobago to be represented on the council. I am sure my colleague, Sen. Alfred, will deal in greater detail with what is the position today in respect of Tobago and the preservation of our national heritage there.

2.55 p.m.

Mr. Vice-President, when you are dealing with the establishment of a national trust with the functions as defined in the 1991 Act, you are also dealing with

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several state buildings. We have heard about the Historical Restoration Unit in the Ministry of Works and Transport and there is also the Citizens for Conservation as an interest group.

I came across a document which I think may have been withdrawn—I hope it was withdrawn—a Bill for the Establishment of a National Park and Wildlife Authority in Trinidad and Tobago. This is the kind of legislation the Government is seeking to put in place, setting up more and more authority and bureaucracy wherever you go. How is the National Trust of Trinidad and Tobago (Amdt.) Bill going to deal—or is it going to overlap—with a proposed National Parks Bill?

The point is, you have various agencies and groups which are involved when you are talking about the preservation of our national heritage. If you want legislation that would work, there ought to be—especially when this kind of legislation has such far-reaching implications—some kind of consultation. I am not aware that over the last week I have read or heard comments from any of these various interest groups about these proposed amendments. They were just dropped in our packages and here it is we are going to debate it. I have to wonder about the legislative agenda of this particular Government.

When you look at the National Trust Act of 1991, our concern, as was pointed out with that particular piece of legislation, was really with respect to the management of the trust and the fact that you could have a situation where a group of private individuals would be in charge of listing a particular building, area or what have you. If, for example, the Government intended or would have liked to do something, let us say, with the Red House, it means that the National Trust can take action against the Government, if its policy was to do something with respect to the Red House. It is a balancing act that needs to be done.

If these concerns are being addressed by the amendments and the legislation would work, well by all means, fine. But I feel that given the gravity of the situation, these are issues we need to examine and we ought to get a bit more information from those groups or individuals who are going to be affected or are going to be dealing with this particular piece of legislation. In other words, we should have had more time to consider these amendments.

For example, I have heard that in various countries throughout the world there is national trust legislation. Which model and from which country has our 1991 Act been patterned after? How will these amendments fit in? Had we the opportunity to make these comparisons, we certainly would have liked to have a

little more material and information with respect to the setting up of this kind of trust.

The other aspect was that, I think under the 1991 Act, the type of trust being envisaged and, in fact, with the setting up of the council, it would have been a self-perpetuating trust. That was a concern being expressed. The question really is whether the amendments being proposed, particularly with respect to section 12 of the Act, would change that aspect of the trust? Certainly, we welcome the expansion of the council because it means more interest groups would be represented. How are you going to select those persons to be placed on the council? What would be the criteria for choosing these people to appoint them on the council?

If, for example, we want representation with respect to the perpetuation of our cultural heritage, you know how many problems we would find ourselves in? When you look at the diversity in our society with so many races, creeds and religious backgrounds, are you going to have as representatives, an East Indian, an African, a Chinese or Syrian, on the board to preserve our cultural heritage? Far less to have those persons who will represent our buildings, land sites, the national parks and so forth. Clearly, it seems to be a recipe for confusion, unless it is clearly defined. We certainly welcome the addition of a representative from Tobago in terms of the proposed amendment with respect to the trust.

I want to make special mention of the situation at the Red House. We have been functioning here for several months. We know that some improvements have taken place—well, mainly in the Member's Lounge—and that when it rains you still get it falling "bucket-a-drop" just outside the lounge and even in this Chamber. We would like to see this very historic building preserved, and certainly this is an area that if there is a national trust we would get some kind of activity along these lines.

However, while we are talking about the preservation and restoration of an historic building, what about the contents of the building? What about the artefacts within the Red House? My observations are, just recently I happened to be in the library, and some Senators would remember that an exhibition had been mounted at that time, maybe about two or three months ago. I remember seeing a stained glass window which apparently used to be in this Chamber, but it had been destroyed in 1903 during the water riots and there was, in fact, a fire at the Red House. Now, such an historical artefact needs to be restored. To do so you need

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funds. That particular window commemorated the 400th discovery of Trinidad and Tobago by Christopher Columbus and was produced as a stamp in 1898. Our Parliament library has the only stamp that is available.

Mr. Vice-President, you also have the need for us to focus on the preservation of our documentary heritage. If you go into the Parliament Library you would see some invaluable documents. In fact, from as early as 1874, if you look at the top shelves in the library, you would see the *Royal Gazette* going back to 1874. There would be *Hansard* reports from as early 1901 and various council papers and so forth, from 1865. Various reports; Royal Tramway reports, Federation debates, all these documents were previously kept in some cupboards along the corridor as you head towards the library. It is possible some may have been in the cubby-hole as well. These books are rapidly disintegrating.

3.05 p.m.

We see that the library is now equipped with some computers and they probably have a scanner and so forth. But, again, you need funds, Mr. Vice-President, because to preserve some of these documents, if you have the correct equipment, you can actually have compact disks with the information stored on these disks. The Parliament needs money. I do not know to what extent a national trust will alleviate these problems, but certainly as a direct solution towards alleviating the problem some kind of increase in parliamentary funds can, perhaps, be made.

As we know this is the season of good cheer and gifts and we hope the hon. Minister of Finance will take note because we know good things are likely to happen soon. There are several other artefacts. I remember several months ago being down in the library, the door was open and when you look into that old Parliament chamber you would be astonished to see valuable documents just on the ground like that. I know some efforts are being made to salvage some of this material. I think there is an old Speaker's chair. In fact, if you go now into the library you will see an oil painting that is covered with a garbage bag. If you remove that you will see a beautiful 1845 oil painting that was done of Port of Spain. Apparently it was done by someone who had to have taken the view from Lady Chancellor: it is really beautiful. We have to ask what kind of assistance will be given to preserve these kinds of artefacts. There is a little note on the side of that painting by P. W. Justin and it is of a view overlooking Port of Spain. There is some kind of framed correspondence from Queen Alexander and Prince George in our library here. These things need to be preserved.

Mr. Vice-President, I raise these matters because I feel that something should be done and perhaps some extra funds could be given under the parliamentary vote so that we can have these artefacts restored and preserved. Maybe what we really need is legislation as well. This will deal specifically with the management of our records. If you have an archive, whether it is *Hansard* reports or whatever documents may emanate from here over the years, they should be able to be removed from the Parliament building and be stored in some government records centre. These are the things we need to look at, Mr. Vice-President.

In conclusion, I merely wish to state that with respect to these amendments to the 1991 National Trust Act, we support the idea of the setting up of a national trust. But, as has been pointed out, we feel that there are some practical matters to be looked at; this is what delayed its proclamation. The Minister pointed out that some recommendations were being made up until the middle of 1995—quite apart from those recommendations being made in one ministry there also were deliberations taking place in another ministry. Just weeks before the general elections, recommendations were made there as well. So that, there is a situation where this kind of legislation will require a lot of co-ordination with other agencies.

There are so many areas of life that this kind of legislation touches upon. I know for a fact, Mr. Vice-President, when you look specifically at our parks they need to be preserved. I remember way back in 1995 going down the Blue River near the Caroni Swamp and construction work was apace to build a particular tourist facility and a site down there. Just about two months ago I went down there again and all work is at a standstill. Millions of dollars going down the drain and they are paying security to just guard a shell. Why? Just like the library project. The myopic thinking of this particular administration just wantonly stopping projects and seeking to score political points. It is in our national interest for us to pool together and work together and in this respect we certainly support the idea of setting up a national trust.

It has taken many years and this administration, I am sure, is also seeing the problems that are involved in actually implementing this kind of legislation. They are real and we should commend the Minister for bringing it to Parliament. But not in this hurried way. Hon. Minister, we really would have preferred that greater consultation had taken place with respect to these amendments. Certainly, we would have liked to access the comparative legislation or whatever it is that led to the setting up of this kind of legislation.

As a matter of fact, when I looked at the *Hansard* of 1991 no less a person than the hon. Leader of Government Business and the hon. Minister of Public Administration and Information—I have a habit of saying mis-information. Forgive me, Mr. Vice President—but the hon. Wade Mark, who was then on this side, also raised concerns about the duplication and overlapping of efforts and the fact that other agencies—whether the Town and Country Planning Division should be the clearing house for the listing of properties, or should it be through the Ministry of Works and Transport? These are real issues that have to be addressed. At the end of the day, we know there are people out there who have been working at this and who would really like to see something in place to protect our national heritage. As I indicated before, we certainly support the idea but we do have concerns with respect to the amendments. We are concerned about whether a special majority is, in fact, required and we feel, instead of hurriedly rushing this Bill through Parliament, there should be some further consultation and that the public out there and those persons who are going to be affected by this piece of legislation should also have an input in it. Because you talk so much about consultation, put your money where your mouth is.

I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Prof. Julian Kenny: Mr. Vice-President, I can agree with the hon. Minister on most of the points made, but there is a fundamental disagreement I have which I will address in a while.

The National Trust Act is clearly an extremely important piece of legislation. We have heard about the importance of our heritage and so forth, but I think we really need to look at a bit of the history because in this country we have had an abominable record of care for our heritage. I will not finger any particular administration but this goes way back. Indeed, Mr. Vice-President, when I returned from the university at age 22, just about to become 22 in 1952, I met the late Douglas Archibald who was an eminent Trinidad historian, author of works on Tobago. At that time, because I had an interest in the natural environment, I spoke with Douglas Archibald and many other Trinidadians at the time—I am talking about 1952—who were talking national trust. This is post war moving towards independence. While this was happening similar discussions were taking place all over the Caribbean. It is a fact that Trinidad and Tobago remains the last member of CARICOM to establish a national trust; it is yet to establish a national trust. This tells you something about our attitudes to our built heritage.

Mr. Vice-President, one of the things that bothers me with legislation in Trinidad and Tobago is passing legislation sometimes and its non-proclamation and non-implementation. It is inevitable that whenever we talk about the environment I must refer to the Environmental Management Authority. But in this case I am not critical of them. I am critical of the Government because the Environmental Management Act of 1995 makes it quite clear that the Government has to establish an environmental commission. This is a court of law. Whatever the EMA may say today is without substance because it has no powers of enforcement and until such time as the Government takes that Act seriously, we will have lots of advertisements on the papers, we will have lots of show and talk and so forth, but we will not be able to come to grips with what is necessary. The EMA Act makes it quite clear; there is a whole part of it devoted to the establishment of the environmental commission. We have seen a similar sort of thing with the National Trust Act.

I would like actually—while I hurl a few brickbats—to commend the Government, as well, because I have noticed a number of things which have taken place. A number of initiatives concerning our environment originating from the EMA. Just a little over a week ago we had the first draft standard for effluent from factories. It is spelt out there, it is out for public comment. As soon as the public agrees or sends its comments in, it will be amended and it will go back to the EMA and the final drafting will be done. It then comes to Parliament. That is with respect to the established standard for effluents from factories. I think the Government really has to be commended for taking steps such as this.

I would like to add, as well, much to my amazement, I saw last Sunday in the *Guardian* an advertisement from the EMA regarding vehicle emissions. I see that little rule which I have quoted so often in the Senate about vehicles emitting smoke, visible vapour and so forth. It comes from the Road Traffic Act and I understand, on very good authority, that the EMA and the Licencing Authority are actually out on the road doing the piloting studies now. From December 16—people of course have had the warning—motorists will be stopped for vehicle emissions. Therefore, the Government has to be commended for its initiatives in taking these steps.

However, I would like, with your permission, Mr. Vice-President, and the permission of this House, to deal with one of the problems we have here; the problem of attitude towards our heritage. Be it the natural heritage or be it the built heritage. I would like to use a few examples to show what we are dealing

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with. I will come again to the Government but I really must read just a few words into the record. This is from the *Daily Express* of November 21 and it is an article titled *Savannah Road Overkill* written by someone called Terry Joseph. I assume that he is a professional journalist; a wild assumption. But right at the start here is the sort of language:

“Something has gone terribly wrong with the thinking of the custodians of carnival, when a fly-by-night six-man group, calling itself Save Our Savannah (SOS) committee could, with spurious and emotional arguments,...”

In other words, one part of the society is saying that if you feel that something which is our heritage really ought to be properly conserved you are spurious and so forth. It goes on in places and this is the sort of pejorative language:

“Last month, the puny-but-powerful SOS committee convinced the NCC board to scuttle the plan on the premise that it would damage the Savannah's aesthetics and general environment.”

3.20 p.m.

I must say at this point that I was delighted to learn that the ministry had taken the broad overall view and had decided not to run a paved road through the savannah.
[Desk thumping]

You see the sort of thing that is published in the media in this article. I believe in free speech, and so forth, but listen to this:

“More importantly, Smith argued that because the protest was raised by white middle-class, the road was stopped.”

This is the level of journalism we have in the country.

If I may quote this one, because this, to me, tells you about the attitude:

“The Peschiers, the family who donated what is now the Savannah to the people of Trinidad and Tobago themselves put down an unattractive family cemetery...”

Who is Terry Joseph to decide what is an attractive family cemetery? This is the sort of attitude that you find emerging from the media.

I would also like to refer to our history, of what we have done. I know that I keep repeating myself, but I would like to start off with a mural at Piarco Airport

by Carlisle Chang, the eminent artist. He was responsible for designing our Coat of Arms. When the airport was being expanded, it was decided that the mural be removed. The then Minister of Works and Transport decided that it had to be demolished. I would like to emphasize that Emile Elias, the contractor, offered the Government of the day to remove the mural and assemble it in any other site it may want, at the cost to his firm. Do you know what happened? They said, break up the mural. And it became junk. That is our history. That is the sort of attitude that you find emerging from the governments of the day.

I would like to refer to some others. I would come to the Government of the day very soon. Nelson Island is the oldest standing building in Trinidad and Tobago, built in 1802. It has been used for various purposes. For the last few years it has been a prison. But in spite of all the efforts, Nelson Island has been totally and completely vandalized. This is what bothers me when we have legislation like this. We say we will save our national heritage, but yet we have a major structure going back to 1802, being vandalized, where the ancestors of half the citizens of this country passed through. We also imprisoned two Trinity Cross holders on Nelson Island, the Brigadier knows only too well. *[Interruption]* This is not about the PNM; I am coming to the Government of the day. But here you have a building, the last time I went there, there was no attempt to prevent further degradation.

Here is something which is really part of our heritage. I do not know if any Members of the Senate have been to Chacachacare recently. There is the old leprosarium, a place of immense history in agriculture at one time. There was a cotton plantation on Chacachacare. The nuns who ran the leprosarium lived on Marine Bay in a house with a chapel. One or two of them who had died of leprosy were actually buried there. I can assure you that the nuns' house and chapel is devastated. It really is so sad. People who have given so much to the society are treated so badly.

Do you know, Mr. Vice-President, you go in there and you see people stripping the internal partitions to make fire to cook. This is a fact. Sadly, the cemetery was desecrated. Headstones were removed, the railing broken down. But a private group belonging to a church went there and with some help they restored the cemetery. This is something which is happening when we have governments, one after the other, talking about our heritage.

I will just mention a few others. One is, of course, this building. Something about which I have become quite neurotic is that a piece of Victorian

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ornamentation was removed from the top of this building. For a brief period, no one knew where it was. It was hidden away for national security reasons. Eventually it resurfaced in the National Museum where one can see it. It is a piece of copperware about so big in the motif of the structures you see around the fountains in Woodford Square; totally and completely compatible with the architecture of the place. Now we have something up there which, to my taste anyway, is absolutely hideous and out of place. [*Desk thumping*]

From time to time, Sen. Daly who plays mas—I do not; I mean he knows all about the savannah, and so forth—has referred to the subject of the savannah and he has taken some flak. They say, “that is old time thing” and so forth, “back in times”. But those others old enough to remember the savannah which is a gift from the Peschiers to the citizens of Port of Spain and the people of Trinidad and Tobago, with its tram car and fond memories: what is it today? Around the Grand Stand is a slum, a flea market, right in the heart of our capital city. This, I say, government after government—national heritage. I think we have a bit of a problem.

Let me just refer to one of the most recent problems concerning our heritage. If one looks at the Bill, it speaks of botanical stuff, animals and plants, as things to be preserved and conserved. We have, what is called, the Royal Botanic Gardens. Next year the gardens will be 180 years old. A lot of the early botanical history of this country emanated from curators of the botanical gardens. Lockhart, Broadway, these are people who are passionately involved in building knowledge about our country and its natural heritage.

Over the past hundred years or so there has been gradual encroachment on the Botanical Gardens from all sides. Last Monday, the public went to a consultation on the expansion of the Emperor Valley Zoo. That zoo can only expand if it takes part of the Botanical Gardens. There were about 40—50 persons present. There was only one small notice, and this was supposed to be a public consultation.

We went to it with open minds but subsequently discovered that everything was a *fait accompli*, according to the panel, that is, the acting curator, the architects who were retained and the environment consultant. When I got hold of a copy of the terms of reference, I learnt that that part of the botanical gardens has already been leased to the Emperor Valley Zoo. We were not told this at the consultation. Not only that, Town and Country Planning has already given approval to go ahead. All that they were doing was allowing the public to have a say.

3.30 p.m.

In fact, the terms of reference for this study required consideration of alternatives to what is being proposed. There was no mention of any alternatives. We learnt, of course, from the newspapers that the expansion of the zoo was going to cost \$16 million for approximately five acres, and it is to provide eating facilities, some more cages, enclosures, car parking and so forth. Here, within days of debating something as important as the national trust, one part of Government is eating into our national heritage. I mention these to give the historical background.

Mr. Vice-President, I am glad that you allowed me all this latitude. I would like to address the substance of the amendment. I cannot find any major fault. I think this is sort of refinement on the part of the Government. The main concern, and this is where I differ from the hon. Minister and the Government for that matter, is that this change of the composition of the council and the appointment of the chairman places an entirely different perspective on what is intended because the original Act was one to empower people. The amendments here are to take power back from people and to put it in the hands of the ministry. That is essentially what it is because it says the Minister shall appoint the chairman and the other—I am glad that the number has been extended from nine to 11, but I am rather saddened to note that the Government thinks it necessary to keep control, especially as no Government of this country has demonstrated any real commitment to management of our built heritage.

I have some suggestions as to how we could possibly proceed and I will develop these later. Here is the fundamental difference. As I read the original Act, the intention was that the Government would appoint the first council consisting of nine persons but once the council started working and performing, the membership of the trust would then elect the chairman. I do not see the need to amend legislation to say that the Minister must appoint the chairman of the council. If one is seriously intending to get people to pay membership fees into the National Trust, one will have to allow or give people the feeling that they are actually going to be part of a thoroughly democratic thing. The check and balance being persons appointed by the Minister, and here is my problem.

I said earlier when I was talking about the National Trust, I would be one of the first persons to contribute \$500.00—that is in the schedule for life membership. In fact, if it is \$1,000.00 I would pay the \$1,000.00 to be a life member of the trust but, I would have grave reservations—bearing in mind the history of our country

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and the way we handle these things—about putting \$500.00 or \$1,000.00 and then having the Government pat me and say you are a good member, get on and do your thing, but we will control it. Why is it necessary, especially in a small democracy to have this ministerial control? I have grave reservations about this particular amendment.

Mr. Vice-President, I come to being constructive. There is no doubt that it would be very easy for a group of learned people in these matters to go through our built heritage and come up with a listing of two schedules. Those that would be clearly the responsibility of the state and those that would be the responsibility of the trust. We can list many of these places. Nelson Island, this Red House, the buildings in Chacachacare, some of the older estates which are owned by the Government, and make these the responsibility of the Government. National Trust is not involved in it. I see no reason for the national trust to become involved in the Red House. Maybe, it can advise but this should be a responsibility of the Government. This is state-owned. With a national trust, what you are attempting to do in the industry is to take parts of your built heritage that may or may not be in private ownership and you list them. The listing is a technical task. You list them for antiquity, for historical importance, for architectural features or what have you.

Then you have the powers of the trust. Once it is listed as grade one, two or three, you then tell the owners without taking ownership of it, what they may or may not do. So if I own a grade one property the trust can tell me you may not do any alterations whatsoever and there is the power of the Act behind it. This is the intention of a national trust. This is what we ought to be headed towards. I believe that the Government really ought to consider possibly rethinking this and coming up with a schedule of things that are beyond the national trust and this would allow them to function as the trust really ought to function, not as an arm of the ministry but rather as an arm of the citizenry of the country.

I throw this suggestion out to the hon. Minister for possible consideration. I would hope that this amendment is not pushed through today. I think that there has to be a fair amount of debate yet on it. The public really wants to know a lot more about it.

I would like to turn next to the amendment concerning representation of Tobago on the trust. I think there is an equally powerful argument for representation of the Mayors of Port of Spain and San Fernando on the trust because these two cities have more built heritage that are under great threat but

are in need of preservation. I see nothing wrong if there are 10 Tobagonians who have the skill. I would put all 10 on the national trust. In this case, I do not see any real need to say Tobago's view must be represented. What one wants to look at is the pool of talent available in the country and then pick out those who can offer the technical skills to the trust.

Mr. Vice-President, I would now like to make my final comment on what appears to be a neophyte in the Senate, a problem which has bothered me and other people over the past two years—the legislative agenda. We do not know exactly where we are going and many people do not have the time that I have, because I am largely retired. When I look at the six Bills listed on the Order Paper, I am trying to see what is the thrust. Some of the Bills, especially the bill protecting pregnant women I would consider of highest priority. I would also like to think that the national trust is also a very high priority but the other things I cannot see the priority at this time. More crime, tribunal is a very interesting piece of reading. I do not know how many people have read that Bill, but I get the impression that somebody said Trinidad and Tobago jump, and we jump with it, and we will bring it to Parliament. In other words, what I am driving at is that in my judgment, the Government has not met the promise made to us in the Senate, a very general promise, that there would be a legislative agenda. When you see the things coming from the other place, I am even more confused.

3.40 p.m.

I appeal to the Government to think again and give us some indication so we can use our time more profitably.

I wind up my comment by referring to this chronic problem with legislation. Different agencies seem to be doing whatever they will and some of the vocabulary is starting to confuse. When or if the National Trust of Trinidad and Tobago (Amdt.) Bill is amended, it is quite clear what their responsibilities will be. There is overlap. Sen. Nafeesa Mohammed referred to the Parks and Wildlife Bill. We have spent a large sum of money with Australian consultants to draft out this Bill for parks. It has not occurred to the consultants or anyone else in the ministry, that there is already national trust legislation which deals with protection of the built heritage. I do not know the status of it, but I think it has been recalled for redrafting.

At the same time there is a large Draft Land Planning Commission Bill out for public comment. This requires much reading. The Environmental Management

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Authority has been given certain powers to make rules and regulations, and we have told this authority that it would have to issue environmental clearance certificates. At the same time that is being done, this Draft Land Planning Commission Bill will determine the terms of reference to the Environmental Management Authority.

There is a problem in this country. If a person wants to invest in this country and goes to the Environmental Management Authority and the authority stays clear, the person may go somewhere else. Then you would find it may be affected by some other governmental agency which would have its say and would set their terms of reference. How can all these arms of government make legislation independently? This legislation may be passed in the end and you would find that agencies may be fighting against each other.

My final comment relates to the reality of our seriousness about national heritage. The question would be aimed at the hon. Minister of Finance and Minister of Tourism. We may have the grandest plan to list properties and parks, but until such time as we give substance to the effort and a part of the budget is devoted to the preservation of our built heritage, we would continue to debate the Bill, amend the Act and then perhaps 10 years later when absolutely nothing has happened, we would return with a new effort and mainly talk.

The Government has done a marvellous job with certain aspects of the environment in the control of pollution which is a major concern of the people with regard to their health. Let us deal seriously with the issue. Get the environmental commission established; it would cost a few million dollars. Establish a national trust and give it the seed capital to get it moving. Above all, ensure that it is not party appointments to the trust. Approach the trust by identifying the best talents in this country to effect its development.

Thank you.

Sen. Cynthia Alfred: Mr. Vice-President, thank you for the opportunity to speak on this piece of legislation. As other persons have expressed, I too, welcome the establishment and incorporation of a national trust of Trinidad and Tobago. It is a body that would be responsible for the identification and preservation of our national and historical patrimony. However, I need to point out that five years ago, on October 27, 1992, a Tobago Trust was established by trust deed between the Tobago House of Assembly and a board of trustees. Obviously, I make the point because I do not think it is known in these circles, or perhaps by many persons. I

would not like it to be thought that there would be controversy with respect to an already established trust and the national trust to be established.

I took some time to find out what obtained in Great Britain from the Encyclopaedia Britannica Volumes 14 and 29. Volume 14 states:

“One of the earliest initiatives to preserve the heritage of the past was the establishment in 1895 of the national trust . . . There is a separate national trust for Scotland.”

In other words, the Tobago Trust was established five years ago and has more or less the same duties as the national trust would have with the exception that this deals specifically with Tobago. I would like that to be noted and factored in, so that when we have further consultation with this matter, some consideration would be given to this.

In addition, I note that it is proposed that there be at least one representative from Tobago on the council. I like the idea. I had discussions with the former Chairman of the Tobago Trust and we feel that representation from Tobago would ensure that the Tobago Trust would be brought up to date with what is going on in the national trust and, the national trust would be brought up to date with what is happening in the Tobago Trust.

I do not think I will comment on what was said previously about Port of Spain and San Fernando having representation. That is for the powers that be to determine. I must reiterate, as everybody knows, that Tobago forms part of the state. The big difference between Tobago and Port of Spain is that Tobago is an island separated from Trinidad by water. This must be taken into consideration. Tobago cannot be treated as another part of Trinidad. It must be treated as a part of Trinidad and Tobago.

I note that according to clause 7 of the Bill, the trust may acquire by purchase or transfer. I want to speak about “acquire by purchase”. I ask that when the trust is given the power to acquire by purchase, that provisions be made for moneys to be paid expeditiously. We know that it is a chronic disease in this country that after years of acquisition, especially by the state, moneys are not paid and the owners suffer. I ask that some special arrangement be made so that the trust would not be given seed money, but rather substantial moneys so that it can function satisfactorily.

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This brings me to the other point of the Encyclopaedia Britannica which mentions that among bodies devoted to grant aid, the Historic Buildings and Monuments Commission for England disburses grants with a modest annual budget largely to help building owners penalized by heavy estate duties. These grants are administered to encourage owners to take a pride in their own buildings. Having made the plea to have a substantial sum of money given to the trust to carry out its duties with respect to purchasing property, I also ask that where buildings are not necessarily acquired by the trust but listed as buildings of historical interest, that the owners of those buildings be given some assistance to preserve and protect them, so that they would always be of the standard required for a national monument or something of national historical interest.

3.50 p.m.

With respect to the amendments, I agree that there needs to be a minister involved, certainly in the choosing of the chairman and so forth. I agree with the amendments because I think that the state must have an input in what is happening in matters that concern itself.

Finally, I would like to recommend that this Bill be further discussed at some level, or in some setting designated by the Minister or the appropriate authority, so that we get some fresh thinking. This has been in the offing for a long time. The persons who may have given suggestions before can be brought back into the picture, and others who may want to be involved will have the opportunity to do so at this place, where some sort of consultation could go on.

I thank you, Mr. Vice-President.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I begin by welcoming what is really the revival of a most important bill. It is better late than never.

Many people in this country have been crying out for nearly 50 years for the establishment of a national trust, and many individuals and organizations have set about doing the work of a national trust with their own energies and fundings. I am sure that a large number of persons in this country will applaud the Government for bringing the National Trust Act back to Parliament.

In effect, heritage items are being recognized as being endangered. Heritage items are being granted the status of works of art. Heritage items are being recognized as part of the present and as a necessary part of the consciousness of our people, so this is an important Bill about which we have to think and talk much, and about which a great deal of consultation is necessary.

I am a little concerned that although the Bill is interested in heritage items, this only seems to be in a general sense. It says, "listing and acquiring such property of interest as the trust considers appropriate". Where will the trust get the information about what is available? What criteria will it use for determining "appropriate"? It is a very large task and I would like to see some more work done before we appoint a trust. There is work to be done to define the responsibilities of the trust. I do not like appointing a national trust and giving it a vague brief to do what is "appropriate", but I will come to some more detailed arguments about that in a moment.

I welcome subclauses 5(e), (f) and (g). I refer to the original Act No. 11 of 1991, which, incidentally, should have been sent automatically to all Senators when we were sent the amendments. Clause 5(e) encourages research into property of interest; 5(f) encourages compilation of photographic, architectural and, I hope, other kinds of records of property of interest; and 5(g), makes the public aware of the value and beauty of the heritage of Trinidad and Tobago. I think that the educational function is a very important one.

Like most of the other speakers, Mr. Vice-President, I have difficulty with the relationship between the proposed national trust and other bodies and organizations, such as museums and the Town and Country Planning Division, all of which are doing work that is connected with the work of the national trust.

4.00 p.m.

I would like to see some clarification of areas of responsibility, not just to avoid confusion, but to ensure effectiveness. One cannot have a national trust with a brief to do everything and, as Sen. Prof. Kenny suggests, cross-threading with a number of organizations that feel they should be doing it, or should have an official say in it. I would like to see that cleared up and I do endorse Sen. Prof. Kenny's explicit point that there are certain items which now seem to be in the hands of the National Trust of Trinidad and Tobago which really ought to be matters for government's action, the Government knows that certain things have to be done.

Mr. Vice-President, I have some reservations about power, the functions and the effectiveness of the National Trust of Trinidad and Tobago. I will come to the power in a moment, but I have to mention—and I hope that the hon. Minister would forgive me—the *Biswas House* which, we fought to get the Government to agree to purchase a year ago and it is still in the act of purchasing this house. A committee called "The Friends of Mr. Biswas" was formed with renowned architects,

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financiers, people in the arts, accountants, really energetic persons who wanted to make a contribution to the development of this house and for the whole year I have been asking them to hold on, I will hear something soon. The bank has now closed the account which was opened in that happy, optimistic period when I thought the house would have been purchased in two or three weeks, but now, so far, there has been no information and I understand there have been all kinds of snags precisely because different agencies have different parts to play.

I think that the National Trust of Trinidad and Tobago will have to find ways of streamlining procedures so that when it decides to make a move, action can take place very quickly. I am expressing some misgivings about the number of functions and the possible lack of effectiveness of the National Trust of Trinidad and Tobago but I am glad to see heritage items being treated as works of art.

The persons who are producing items today that are going to become heritage items are just as much in need of protection and encouragement. They are just as endangered as the heritage items, and I wish to make a plea at this point that the Government should consider simultaneous with the establishment of a national trust, the establishment of an Arts Council of Trinidad and Tobago whose membership would include persons from all the arts of the island and whose functions would include the recognition, the material production, distribution and the encouragement of the production of such art and support for the artists. I think it is high time that the outstanding artists of this country—those with a record of work who need six months' or a year's salary to work without worrying whether they would starve—there should be a body in Trinidad and Tobago to which they can apply and show the record of what they have done and ask whether there is an artist colony which they may go to, a place to finish a piece of sculpture, writing or music.

Mr. Vice-President, we are taking away so much property from dope dealers and so forth, I do not see why we cannot get two or three such buildings to set up as artists' colonies. I see the establishment of an Arts Council of Trinidad and Tobago as a necessary accompanying gesture to the establishment of the National Trust of Trinidad and Tobago.

On the subject of listing and acquiring, in the Act of 1991, 5(a) says:

"(a) listing and acquiring such property of interest as the Trust considers appropriate;"

Sen. Mahabir-Wyatt raised the question about the difference between the words "listing" and "acquiring". I am not happy with the Minister's explanation, I do not

think that we can depart from the ordinary meaning of the word, "acquire" which exists in Act No. 11 of 1991, section 7(1) which says:

- "(a) acquire by purchase, transfer, donation, exchange, demise, bequest, grant, gift, conveyance or otherwise any real or personal property or any estate or interest therein;"

So the word "acquire" means to take possession of, it does not mean to take possession or to take care of. I am not at all happy that we have lumped together the words "listing" and "acquiring". I think it is very important to list, and to list is to identify and place markers on, saying that these are the heritage items that we want to preserve, protect and exercise guardianship over. I would suggest, and, if this debate continues to another session, I may bring an amendment proposing that we split the old section 5(a) in two and have one saying "listing" and another one saying, "acquiring where necessary or possible".

I have another detailed comment to make about the phrase "as far as practicable". Section 5(b) of the Act says:

"5. The Trust is established for the purpose of carrying out the functions given to it by this Act, which include—

- "(b) permanently preserving lands that are property of interest and as far as practicable, retaining their natural features and conserving the animal and plant life;"

I said I have some misgivings about the power that the National Trust of Trinidad and Tobago has. Supposing the Ministry of Tourism decides that a piece of heritage property needs to be used for a hotel, a casino or whatever? What does the phrase "as far as practicable" mean? Who is going to benefit from that, does the trust have the muscle to stand up to that ministry and say it cannot be done, when there are six members who are appointed by the Minister?

Mr. Vice-President, I would like to see this trust having teeth. It must have a budget. It must not have as section 16(a) says:

- "(a) all monies received by the Trust out of monies appropriated by Parliament for the purposes of this Act;"

I want the National Trust of Trinidad and Tobago to be told that it has a budget of "x" million dollars each year and it does not have to wait on the budget to know how much it is getting.

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I also want it to know that it is not under the thumb of the Minister and that the majority of the board of the National Trust of Trinidad and Tobago would be made up of persons who are not appointed by the Minister. [*Desk thumping*] So that if the trust wishes to oppose Government's policy, it could say it has money and votes and does not agree and fight it out. I would like to see something done to guarantee the finances of the fund. I do not know what the term is, under what head it would fall, but give it an allocation and it may apply for more. The membership of the board of the National Trust of Trinidad and Tobago should be so distributed that while it is very necessary, useful and respectful for the Minister to have a say in using his judgment to appoint persons who he would like to see on the board, I still would like that board to speak for the nation and to be elected in the majority out of the people who belong and have subscribed to it.

Mr. Vice-President, I have one more matter to raise which touches in a coincidental way because it is what Sen. Prof. Kenny alluded to when he says there are many things which the Government can do and which the National Trust of Trinidad and Tobago does not have to do so that we can delimit its activities. Maybe I can approach the whole argument by saying that before it gets into action, there is an absolute necessity to establish a scholarly and antiquarian task force made up of professionals and amateurs with the powers to consult nationally and with the brief to compile a directory and draw a map of all eligible heritage items. It would also be very useful to the schools and the tourism ministry.

That directory and map would tell us of all the heritage items and where they are. It would establish, hopefully, an order of priority for action. It would point out, for instance, that there are 200 items and the first three, let us say, have to be taken right away or they would be lost forever. It would establish an order of priority for action. The list would classify the heritage items as to whether they are natural or man-made features, or whether one is dealing with plant or animal life. The list, very crucially, would make clear what is already owned by the state and is being neglected, unrecognized and underdeveloped by the state. That list would make it clear that the state owns so many items already. It does not have to acquire, they are already there. The National Trust of Trinidad and Tobago does not have to bother to work on those, they belong to the state and the state can send its agents to do the needful. I do not think the state knows what it has. So my scholarly and antiquarian task force would provide a list that would help us to work that out.

The list would contain information about what is in private or non-state hands, it would help to work out whether a guardianship order needs to be placed, and

that would be the necessary thing, most times. A guardianship order is one where one goes to a man who owns a heritage building and tells him he should not change it, or alter it radically, that an order is being put on it to be preserved and that the state is willing to contribute to the repairs and maintenance of the building. There must be a *quid quo pro*. The state will now become a partner with this owner through the guardianship provision in preserving that piece of heritage. Of course, the state or the trust is always ready to receive as a gift. I think the state needs to recognize what is already owned and therefore, what action can be taken on immediately, what is in private hands and what a guardianship order needs to be placed on in the categories that Sen. Prof. Kenny suggests. In category 1 where before a nail is put in, one has to consult and in category 3 one would be allowed a certain leeway, but it will be clear to the owner that that is the category under which his building is placed and the kind of help which the state would give him when he is trying to preserve the building. The state will also be able, through that list, to know which properties are available and which it can acquire. It might be a very valuable building which the owner has allowed to fall into disrepair, which he does not care about and wants to get rid of to somebody to open a roti shop or something, the state may well wish to acquire that building.

Mr. Vice-President, I end by welcoming the Bill once more and asking the Government to go slow and think about all the suggestions. I would like to encourage them, finally, to mount an education programme so that the people of this country will want to be members of the National Trust, whether they have to subscribe or not.

Thank you, Mr. Vice-President.

4.15 p.m.

Sen. Prof. John Spence: Mr. Vice-President, I think some of us—certainly I do—find ourselves in a bit of a dilemma, because as has been stated by previous speakers, this amended Bill results in proclamation of the Act and it is something that we would all want because we want to see more action taken with respect to preservation of various heritage buildings, sites and monuments.

I certainly still have some of the reservations that I had when the original Act was first presented to Parliament. I was involved in those discussions, and some of what is being said this afternoon, clearly indicates that these issues have not been resolved by the amendments which have been proposed. It seems to me a pity that the opportunity is not being taken to resolve some of the more fundamental issues.

If one looks at the original Act, one sees that in section 8 there are two sets of listings. Mr. Vice-President, I think it is important that we zero in on this point because much of what has been said leads to some confusion because this point is not being addressed. It says in section 8:

- “(1) The Trust may with the approval of the Minister and in accordance with principles and procedures laid down in regulations made under section 29:
- (a) prepare a list of buildings and sites of particular national, historic or architectural properties and can effectively be so preserved under the provisions of this Act and any such list shall describe the lands included in the list with precision either in words or by reference to a registered deed or Certificate of Title or State Grant;
 - (b) prepare list of properties of interest not falling under paragraph (a) above or categories of such properties which should be preserved as listed properties under the provisions of this Act;”

So there are two different categories and it is not clear to me, from what has been said by the Minister in her presentation or the discussions which followed, what is the distinction between these sets of listings.

I think, really, the original conception of the Bill is what has caused the confusion. In many countries, certainly in the United Kingdom, there is a national trust which does some of the things that are listed here under paragraph 8(1)(a), that is, the national trust sees about the preservation of certain monuments, certain historic sites and buildings which the trust acquires. The trust, over a period of many years—even though originally it has been a voluntary body—has acquired funds, but the listings of private buildings, properties and houses are not done by the national trust in the United Kingdom because, I think, that country has recognized the difficulty of handing that sort of responsibility to a set of private individuals.

Some of what has surfaced in this Bill, and the fact that it was not proclaimed previously, I think, really revolve around that point. There has been some reservation in handing to a group of private individuals the complete responsibility for actions of this sort. Therefore, the attempt has been made in this set of amendments to pull that back a bit by giving the Minister more responsibility in the appointment of individuals. However, from the initial tabling of this Bill, I certainly

had that problem because I was aware of the system that was used in the United Kingdom.

For example, the local council would list private buildings and much of what is shown under the regulations in the original Act. There are different grades of properties and it tells one what could be done with each grade of property. The first issue that arises with respect to the national trust and its responsibilities is: Where is the technical competence within that council to make the decisions about the listing of buildings? Clearly, it cannot be done by the council itself, because these are persons who may have a wide area of competence but certainly not the in-depth competence that the technicians, for example, in the Ministry of Works and Transport or in the Ministry of Planning and Development possess. What does one do? Does one set up the national trust and then give it the money to employ architects and property valuers and all the rest of it? That is the only way it could really do its job properly. One cannot expect a number of part-time individuals appointed to a council to do that sort of technical assessment. How do they do it? To which ministry then is the council responsible? This is one of the difficulties I had when the Act was tabled. The Ministry of Community Development, Culture and Women's Affairs does not have the in-house capability to make that assessment either.

My position at that time was that the council should be responsible—I prefer the Ministry of Planning and Development, where Town and Country Planning resides, although there are rumors that in the new Land Act, which is to be tabled shortly, I believe, there may be some possibility of that moving to—Heaven forbid—the Ministry of Housing and Settlements. Mr. Vice-President, the Town and Country Planning Division, clearly, would have that competence and so would the Ministry of Works and Transport.

Now, the assumption then is that the Ministry of Community Development, Culture and Women's Affairs is going to be advised by these other ministries. In concrete terms, in practical terms, ministers and ministries, unfortunately, in Trinidad and Tobago, do not collaborate with each other. That is the first difficulty that I see if this council is left within the Ministry of Community Development, Culture and Women's Affairs.

I do not see that it is easy—and I am not suggesting that one should make all these amendments to this Act now, because that is going to take much more time than we have, and another five years delay in the proclaiming of the Act, so

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certainly I would go along with at least having something. However, over time we have to realize that these problems would arise and we have to decide how to deal with them. Are we going to leave the listing of buildings, including private properties—and let us be clear, the listing of properties may affect its market value. I may be the owner of a property and I may be informed next week that it has been listed and I cannot sell it, because the purchasers of that property are going to be more limited if they know that it is listed and certain provisions are made with respect to how I can treat it.

That is not to say that one must not preserve one's natural heritage. All I am saying is that one has to address the problems of listing, along with meeting the need to preserve our national heritage. I think it has been done in the United Kingdom in the best possible way. There is a private sector organization which can acquire properties of national interest and has the financial resources to acquire certain things which must be preserved completely and dealt with exclusively by the owner. Then there are government authorities—either local government or central government authorities—which have the expertise and capabilities within the relevant departments or ministries or local government bodies to list private buildings and to say, “yes, these should not be altered.”

4.25 p.m.

We have not done it in that way and I think much of the discussion this afternoon really arose from that difficulty that we have tried to do it in a completely different way here. I think I would be grateful—before we finish this exercise—if we could, at least, have some clarification of section 1(a) and (b), so that we would know what the differences are with respect to listing.

I agree with the point Sen. Prof. Kenny has made with respect to the difference between Government buildings and privately-owned buildings. I think there really needs to be three categories: government buildings, privately-owned buildings that we are going to do something about through the national trust and those privately-owned buildings that we are just going to say: “we think this should be preserved and we may need, depending on the categories of the grade of listing, to have permission to make certain alterations and all the rest of it. That latter category is the one that I would say, really, should be dealt with by a government agency. I do not see how one is going to get out of it now, having agreed on an Act of the nature of the one that we have done here. I think it is something that we still need to consider.

My position is, yes, I would go along with this Act because we need to have something to preserve our national heritage. I believe we are going to run into some difficulty and we must anticipate that difficulty if we are not to have constant appeals to the Minister, and then for those who can afford it when the Minister rejects their appeal, there is recourse to legal action. But as long as somebody can afford it, that is what is likely to be happening.

I agree with Sen. Prof. Kenny with respect to the overlap between the concerns of the various ministries and the different Acts. That is a difficulty which also has to be watched because the Environmental Management Authority would have certain functions with respect to sensitive areas, which can overlap with the parks for being put on the listing, whereas the parks, when it comes to legislation, also have to be looked at.

Again, one needs to ensure that the Executive then takes whatever action is necessary to ensure that in the overlap between the ministries, nothing was done. Each one is saying that is their responsibility. It could easily happen in this situation.

There is one point of detail—again, not being a lawyer I do not know whether this is a point of great moment but the legal people can say, and, that is, certain provisions are given whereby members of the council have to leave office. I wonder whether it is appropriate to leave it in the way it is worded which, I think, it says, “he shall vacate his office.” We know even our senior persons in this society, sometimes do not vacate their office when it is clear that they should do so. So I wonder if it should not say, “he should be deemed to have vacated his office” if certain things happen, rather than leave it to the individual to vacate his office.

Mr. Vice-President, I support the point Sen. Prof. Kenny made about our attitude over preservation, because the same time that we pay lip-service to conservation and preservation, actions that we take seem not to be in accord with that position. He mentioned the most recent one that I am aware of and that is the encroachment on the Botanic Gardens, which clearly can only have the effect of doing severe damage to a national park which needs to be preserved. This is being done by a government agency. Mr. Vice-President, let us be serious about the whole thing. I suppose in some sense that is why certain people in the community said, “let us give it entirely to the private sector, let us set up a trust which has no control at all, but at least they are going to be impartial. I think that is going a bit too far. I certainly feel that Government has certain responsibilities and, at least, we can throw them out once in every five years, whereas concerning the national trust, we have to rely on the Minister to do that.

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Mr. Vice-President, with those few remarks I hope that by the time we come back to discuss this we would be able to address some of the concerns that were raised.

Thank you very much.

ADJOURNMENT

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, December 09, 1997 at 1.30 p.m. At that time, we would first deal with the Cane Farmers Incorporation and Cess (Amdt.) Bill, 1997 and, as Sen. Prof. Spence has indicated, if we think that we have the time to knock this Bill in shape—excuse my language—we would then address it, but I think we want to give priority to the Cane-Farmers Incorporation and Cess (Amdt.) Bill.

I thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.30 p.m.