

*Leave of Absence**Tuesday, August 18, 1998***SENATE***Tuesday, August 18, 1998*

The Senate met at 10.00 a.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. Vice-President: Hon. Senators, leave of absence has been granted to Sen. Dr. The Hon. Daphne Phillips who is incapable of performing her functions as Senator for reason of illness.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received communication from His Excellency, the Acting President, that he has appointed Elaine Teemul to be temporarily a Member of the Senate with effect from August 18, 1998 and continuing during the period of illness of the said Sen. Dr. The Hon. Daphne Phillips.

OATH OF ALLEGIANCE

Sen. Elaine Teemul took and subscribed the Oath of Allegiance as required by law.

PETITION

**Chief State Solicitor
(Request for Hansard)**

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I wish to present a petition on behalf of the Chief State Solicitor of 82-84 Queen Street, in the City of Port of Spain in the Republic of Trinidad and Tobago. The petitioner humbly prays that the Senate do grant for the Clerk of the Senate or other officers to swear to affidavit, producing copies of the relevant parts of the *Hansard* report of the proceedings in the Senate for June 9, 1998 and to attend the hearing before the honourable presiding judge at the Hall of Justice on August 12, 1998 and on such other dates as the matter be adjourned from time to time by the court.

I now ask that the Clerk be permitted to read the petition.

Petition read.

Question put and agreed to, That the petition be granted.

PAPERS LAID

1. The Twentieth Annual Report of the Ombudsman for the period January 01, 1997 to December 31, 1997. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. The Audited Accounts for Telecommunications Services of Trinidad and Tobago Limited for the financial year ended March 31, 1998. [*Hon. W. Mark*]
3. Report of the Auditor General on the accounts of the Chaguaramas Development Authority for the year ended December 31, 1996. [*Hon. W. Mark*]

ORAL ANSWERS TO QUESTIONS**Environmental Management Regulations**

31. Sen. Prof. John Spence on behalf of Sen. Diana Mahabir-Wyatt asked the hon. Minister of Planning and Development:

Could the hon. Minister tell this Senate when the Regulations under the Environmental Management Act which were due to be laid in Parliament last year will in fact be laid?

The Minister of the Environment in the Ministry of Planning and Development (Dr. The Hon. Vincent Lasse): Mr. Vice-President, the Minister of Planning and Development is not aware of the specific regulations under the Environmental Management Authority (EMA) Act which were due to be laid in Parliament last year. However, the only specific regulation under the Environmental Management Act with a deadline for submission to the Minister, is a draft environment code.

Section 19 of the EMA Act requires that the Environmental Management Authority develop and submit to the Minister, a draft environmental code within three years after the commencement of the Act, or such other time as the Minister may by order direct, based on the date of enactment of the Act. The deadline for submission of the environmental code was March 6, 1998. In March of this year, Cabinet approved the draft Environmental Code Variation of Time Order, 1998, which extended the period of time within which the environmental code may be developed and submitted by a further two years. The new deadline date is March 6, 2000.

The delay in preparation of the draft environmental code had been due to difficulties experienced by the EMA in recruiting suitable, qualified and experienced staff. Cabinet approval was also obtained for the preparation of the draft code by a team of experienced consultants to be funded through World Bank funding. This exercise has commenced and is scheduled to be completed by the new approved deadline. The Minister is also aware that the Environmental Management Authority is at present seriously seeking to put all the subsidiary legislation in place with a view to effectively operationalize the Environmental Management Act as early as possible.

Regarding rules and regulations, the following are currently being addressed:

Certificate of Environmental Clearance - (CEC) designated activities;

Certificate of Environmental Clearance - (CEC) rules;

Environmentally sensitive areas;

Environmentally Sensitive Species Rules;

Environmental Management Register of Water Pollutants and Permissible Limits Rules;

Environmental Management Registration of Sources of Water Pollution Rules;

Environmental Management Water Pollution Permits Rules;

Environmental Management Monitoring Reporting of Water Pollutants Rules;

Environmental Management Permits and Registration Fees Regulations;

Environmental Management Air Pollutants Register and Permissible Limits Rules;

Environmental Management Registration Sources of Air Pollution Rules;

Environmental Management Air Pollution Permits Rules;

Environmental Management Air Pollutant Sampling and Monitoring Rules;

Environmental Management Air Pollution Permit Fees Regulations; and

Environmental Management Vehicles Emissions Standard Regulations.

The first two items of subsidiary legislation identified above have already been considered by Cabinet and vetted by the Attorney General and should be laid in Parliament very shortly.

I thank you, Mr. Vice-President.

Sen. Prof. Kenny: Mr. Vice-President, draft procedures for sensitive species and areas were put out for public comment over two years ago. Indeed, I know that submissions have been made to the authority. I just wonder whether the time-frame of two years is adequate to the authority. Is this what they really need for something that is comparatively simple? I think this is what the question is about.

Dr. The Hon. V. Lasse: As was mentioned in my opening remarks, the specific regulations under which the Environmental Management Act were due to be laid in Parliament had not been clearly established. I do not know of the fact that regulations went out, that is, with the Certificate of Environmental Clearance. I am also aware of the fact that under the policy position, there had been comments made.

10.20 a.m.

Again, Mr. Vice-President, I wish to state that based on this specific question—and we tried to clarify this before answering the question—was the specific regulations under the Environmental Management Act that was due to be laid in Parliament. I think that has now been made very clear.

Sen. Prof. Kenny: Mr. Vice-President, a supplemental question please. I do not want to press the Minister too much, but are there any rules and regulations passed by the authority after its three years in existence?

Dr. The Hon. V. Lasse: No, Mr. Vice-President.

Sen. Mohammed: Mr. Vice-President, a further supplemental question to the Minister. In the hon. Minister's reply he indicated that because of difficulties in recruiting the personnel to draft the necessary code there has been a further delay. Has an environmental commission as yet been appointed, as is required under the Act?

Dr. The Hon. V. Lasse: As far as the Environmental Commission is concerned—the situation required under the Act, which is really an environmental court the Senator is talking about—we intend to put that in place before the end of the year.

Sen. Jagmohan: Mr. Vice-President, a supplemental question to the hon. Minister. Could he kindly advise this Senate whether the work of the Environmental Management Authority—in view of the present status and circumstances—is in any way restricted or inhibited?

Dr. The Hon. V. Lasse: Mr. Vice-President, I find that question very wide ranging. I do not know exactly what the hon. Senator wishes to ask. Could he be more specific?

Sen. Jagmohan: Mr. Vice-President, I have asked this question with the clear understanding that certain difficulties were pointed out by the hon. Minister a while ago in answering the substantive question, followed by two supplemental questions. It is passing through my mind that the Environmental Management Authority cannot do its work effectively in view of the various problems they are facing.

Mr. Vice-President: Is the Minister prepared to deal with that supplemental question?

Dr. The Hon. V. Lasse: Mr. Vice-President, that was not a question. That was an observation made by the hon. Senator which is quite in order to be made.

Mr. Vice-President: Sen. Jagmohan, if in fact you require further clarification in connection with the Environmental Management Act, I invite you to file a full question and the Minister would once again be asked to return to deal with it.

Sen. Jagmohan: I am guided by your ruling, Sir. Thank you very much indeed.

Unemployment Relief Programme (Value and Location of Assets)

32. Sen. Muhammad Shabazz asked the hon. Minister of Local Government:

Could the hon. Minister state:

- (i) What was the value of the assets of the Unemployment Relief Programme (URP) when the programme was moved from the portfolio of the Minister of Works and Transport to the Minister of Local Government?
- (ii) What has been done with the following URP assets since the handing over of the programme to the Ministry of Local Government:-
 - (a) vehicles
 - (b) tools
 - (c) equipment
 - (d) buildings
 - (e) materials?

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Vice-President, the Ministry of Local Government has not yet completed a valuation of the assets.

The vehicles which have been transferred to the Ministry of Local Government are being used in the Unemployment Relief Programme Division of the Ministry of Local Government.

The tools were disaggregated into the following three categories: those usable; those which require servicing to be usable; those not usable and require a board of survey before dispensing. The usable tools have been distributed to the municipal corporations for use in their respective unemployment relief programmes. Those to be serviced, as well as those awaiting a board of survey, are being housed at the Union Park stores in Marabella.

The usable equipment has been distributed between the Ministry of Local Government and the municipal corporations for use in the respective unemployment relief programmes and the defective equipment is being stored at Marabella.

All buildings with the exception of Sea Lots main office were transferred to the Ministry of Local Government. The building at San Fernando, however, was deemed unsafe for occupancy and an alternative accommodation was sought. Materials are housed at the Marabella stores and are being used in the current Unemployment Relief Programme.

Thank you, Mr. Vice-President.

Sen. Shabazz: Mr. Vice-President, the first supplemental question. Did I hear the Minister say that with respect to the first part of the question, a valuation was not yet done?

Hon. D. Singh: Mr. Vice-President, the valuation was not completed.

Sen. Shabazz: A second supplemental question, please. If this valuation is not yet completed why are the equipment and tools being distributed without knowing what is the value? How would you now comfortably come up with a value?

Hon. D. Singh: Mr. Vice-President, records are being kept of what is being distributed. I am sure from the records one could reconstruct the valuation of the assets.

Sen. Montano: Mr. Vice-President, with regard to the valuation of the assets, when was the valuation process begun? When is it expected to be completed? Who is doing the valuation? Is the Minister, in fact, making visits to the assets? Who is making those visits and conducting the valuation?

Hon. D. Singh: Mr. Vice-President, there are several questions being posed by the Senator. As far as I know the valuation of the assets is being done by the accountants. With respect to the visits of the assets, as you know, the programme has been decentralized and each corporation is responsible for certain aspects of the operation of the Unemployment Relief Programme, therefore the assets are in the hands of these corporations. The question of visits would therefore fall under the jurisdiction of those corporations. With regard to central stores where surplus materials are being kept, there is a stores clerk to oversee the operation of the central stores.

Sen. Montano: Mr. Vice-President, the Minister in his initial answer said that the tools and equipment have largely been distributed to the councils. On what basis was the allocation of the tools and equipment done?

Hon. D. Singh: Mr. Vice-President, as far as I can recall, as requests were made for equipment and tools by the various corporations they were met by the staff of the Ministry of Local Government.

Sen. Shabazz: Mr. Vice-President, a supplemental question, please. Something that the Minister said does not sound right. Having sent out the equipment and tools, was it not the normal thing to check them before, so one would know what value went where, rather than check them after they were sent out? Mr. Minister, it seems as though the whole matter has been put in a reverse situation.

Mr. Vice-President: Hon. Senator, that is a comment, that is not a question.

Sen. Shabazz: Okay, Mr. Vice-President. Why was it sent that way first with no value as to what was sent where? Is it that the Minister believes the system there would give the proper value?

Hon. D. Singh: Mr. Vice-President, it seems as though the Senator is not living in Trinidad and Tobago. When the Unemployment Relief Programme was transferred to the Ministry of Local Government, this was the first time my ministry was handling the programme. Many demands were being made for us to start the programme, which we believe we have successfully started. The question of valuation was not a priority at that time.

10.30 a.m.

Sen. Shabazz: Mr. Vice-President, having heard his comment that I am not living in Trinidad and Tobago gives me some room to make some comments too.

Sen. Gangar: You cannot make any comments. Ask a question.

Mr. Vice-President: If you want to ask any further questions, have them filed and we will deal with them at another time.

Sen. Rev. Teelucksingh: Hon. Minister, what steps are being taken to resolve the present URP-based issues at Arima?

Hon. D. Singh: Mr. Vice-President, I am advised that this is a new question.

Mr. Vice-President: I will not be entertaining any further questions. We are going to invite question No. 33 by Sen. John Spence.

The following question stood on the Order Paper in the name of Sen. Diana Mahabir-Wyatt:

**Tobago House of Assembly
(Land Acquisition)**

33. Can the hon. Minister of Tobago Affairs tell this House:

- (a) whether the Tobago House of Assembly has acquired lands from private citizens since 1996 and;
- (b) whether the THA has plans via the Sub-Intendant of State Lands to request the President to acquire lands on its behalf this year?

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I would like to have question No. 33 deferred for one week.

Question, by leave, deferred.

**CONSUMER PROTECTION AND SAFETY (AMDT.) BILL
House Amendments (Deferral of)**

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I seek a deferral of this Motion to the next sitting of the Senate as the Minister of Trade & Industry and Consumer Affairs and Minister of Tourism is not in the country and has asked specifically for deferral to be granted.

Agreed to.

PLANNING AND DEVELOPMENT OF LAND BILL

Order for second reading read.

The Minister of Housing and Settlements (Hon. John Humphrey): Mr. Vice-President, I beg to move,

That a Bill to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings; to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid, be now read a second time.

Mr. Vice-President, when at the end of 1995 there was a general election, parties produced manifestos pledging to do certain things for the people of Trinidad and Tobago and, the party to which I have the honour to belong presented an elections manifesto and the relevant part of that manifesto to be considered today is to be found under the section, "Construction". With your leave, I will quote the section:

"No physical development projects can commence without proper planning or proceed if obstructed by Government bureaucracy. The Town and Country Planning Division will be reformed and decentralized to speed up the process of plan approval as well as to provide the capacity for controlling unauthorized development.

The UNC will appoint an independent National Physical Planning Commission which will be given the responsibility for:

- Developing a Comprehensive Physical Plan for Trinidad and Tobago
- Developing a Code of Appropriate Standards
- Monitoring of the professionals who would be responsible for ensuring adherence to both the requirements of the National Plan and the Code of Standards. Appropriate penalties will be applied to ensure compliance."

Mr. Vice-President, in pursuance of that assurance given to the electorate, once the party formed part of a Government of national unity, the Cabinet took certain decisions. Let me share with the honourable Senate the decisions that are relevant to the formation of the National Physical Planning Commission.

On February 29, 1996, Cabinet agreed to the following:

- (a) the appointment of a Committee by the Minister of Housing and Settlements to consider the following:
 - (i) the feasibility of and rationale for establishing an independent National Physical Planning Commission (NPPC);
 - (ii) the role and scope of responsibilities and authorities of an independent National Physical Planning Commission if the need for its establishment is supported;
 - (iii) the legislation that would be required to give effect to the establishment of a National Physical Planning Commission; and
- (b) that the Committee comprise—

I had recommended Members be taken from all areas of the society, both from the state and private sectors, who impacted, in any way, with physical development and the planning approval process, and the Cabinet appointed those Members on a committee.

On October 17, 1996, to be exact, the Cabinet agreed, in principle, to:

- (a) establishment of a National Physical Planning Commission with the following terms of reference:
 - (i) to prepare a comprehensive and integrated physical plan for Trinidad and Tobago;
 - (ii) to develop codes of appropriate building construction and development standards and practices;
 - (iii) to ensure that all persons and agencies concerned adhere to both the requirements of the National Plan and the codes of standards and practices.
- (b) pending the passage of appropriate legislation, to the appointment of an Interim National Physical Planning Commission by the Minister of Housing and Settlements; and

- (c) that the Interim National Physical Planning Commission should do the following:
 - (i) submit a Final Report, the formal delineation of authority to Local Government bodies to be defined in the Final Report;
 - (ii) modify the draft Planning and Development of Land Bill, 1996 to provide for:
 - (a) the membership and functions of the National Physical Planning Commission;
 - (b) the membership to function under Ministerial function, such direction to be exercised by the Minister to whom the Prime Minister assigns the responsibility for physical planning; and
 - (c) the National Physical Planning Commission to act in an advisory capacity to the Minister;
 - (iii) invite public comments on the modified Bill and based on comments received from the public and its own views and recommendations, submit a draft Bill for consideration by Cabinet.
3. The final version of the Bill and Final Report of the consultant hired to review the consultation process were submitted to the Minister of Planning and Development on January 29, 1998.
 4. Cabinet by Minute 3193 of December 12, 1996 agreed that the Ministry of Housing and Settlements engage the services of consultants and prepare detailed terms of reference for undertaking the preparation of master plans for the development of identified growth poles in Trinidad and Tobago.

So, Mr. Vice-President, while we were doing the work necessary in bringing this legislation to Parliament, we did not go into hibernation in terms of physical development. In our society, we have a lot of professional competence capable of doing competent physical planning.

Cabinet, while the international physical planning was doing the work mandated, also appointed experts, both from the state sector and the private sector, to do physical planning exercises, and some of those included a master plan for the west coast of Trinidad so that the west coast would develop rationally, and

over the long-term, we would determine when and where the location of ports and harbours should be. How best to use the resources—a very valuable part of our country—and how to protect the natural environment at the same time.

In addition, we worked with an organization called the Joint Consultative Council which comprises all the professional associations in the construction industry, of architects, engineers, urban planners, land surveyors, contractors and others. The Joint Consultative Council, which is really a democratic federal umbrella of all these associations, assisted the Government in identifying poles of growth for planning, and 13 of those poles were identified and, in fact, those 13 growth poles were consistent with the existing National Physical Development Plan which was approved by the Parliament of Trinidad and Tobago.

They also did the scoping exercises required to determine the professional input and proposed scales of fees. In that exercise, there was so much work for our professionals that we had to pick teams and we could not use the traditional method of awarding contracts via the Central Tenders Board Act, because that Act requires that in any project undertaken by the Government, one must invite a minimum of three competing professional groups for any single project. There was so much planning work to be done that we stopped to find a way around the Central Tenders Board Act. Unfortunately, we were unable to do so. However, because of the good will of the professionals in this country, some work was done and some progress was made.

Mr. Vice-President, we are now well on the way to rationalized physical planning and development in our country and, I have to say that for the first time, certainly in my experience—and I have been around for 65 years—we have seen patterns of development over the years, not based on rational physical planning requirements. A good example of it is what we have in the East-West Corridor.

This is a pattern of settlement that was deliberate, and I have to suspect that the motives for that pattern of settlements had nothing to do with rational physical planning and the convenience of production and productivity of the country. It had to do with establishing constituencies for election purposes, but what has happened is that in establishing these dormitory settlements removed from the city of Port of Spain, the past regimes were able to create areas of inconvenience for tens of thousands of our citizens, where they slept at night, awakened in the morning and had to journey to achieve all services required—go to their jobs, take the children to school, do their shopping. This put a tremendous economic burden on those

people, unnecessarily, because had they been encouraged to stay in the city of Port of Spain, they could virtually have walked to obtain these services.

10.45 a.m.

By establishing these dormitory communities and retaining an umbilical or dependent link with the city of Port of Spain, those planners have imposed tremendous hardships on the people of Trinidad and Tobago, particularly those people who have been, in fact, moved out of the city. But for the rest of us they have imposed the hardship of traffic jams and roads not being able to accommodate the amount of traffic that is imposed on them. Also, tremendously expensive general infrastructure, water supply, electricity and so forth.

The tragedy of it is that they started to damage the life of the capital city of Trinidad and Tobago, which is Port of Spain. Port of Spain is a city which does not stay alive for 24 hours a day, because at the end of the work day people migrate outwards and then they come back in at the start of the work day. On weekends, the city is bereft of population. If one does not have a residential population in a city, then one does not have the dynamic for growth and development of that city. The consequence of this irrational pattern of settlements imposed on unsuspecting people is that our city has not, in fact, been developing and improving over the years, even though the country was very wealthy and, in the period between 1973—83 an unprecedented boom occurred in the petroleum sector where the country earned tremendous amounts of foreign exchange and had gigantic surpluses.

At that time, when, in fact, the settlement pattern could well have been rationalized and the city improved, because the country had the surplus funds that could have been directed in any project; we did not have that. What we had was many projects which were really not designed for the convenience of our citizens, but were designed more for establishing some kind of an image. The country has suffered from that approach of development and we now have a number of white elephants. I do not want to elaborate and identify some of the white elephants, but I think members of the Senate would be aware of them.

Mr. Vice-President, in fulfilling the mandate which was required by Cabinet, the Interim National Physical Planning Commission—and I want to pause and give credit to the members who accepted, on a voluntary basis, without any kind of recognition or reward, the task and responsibility for bringing us to where we are, examining a Bill that has already been passed with some amendments in the House

of Representatives, but a Bill that now spells out in detail what is required for rational planning and development. I want to give thanks, on behalf of the Government, to all those members who laboured and I know that it was very frustrating at times, because at times the Interim Commission could not even access paper and paper clips, but I ensured that the work was facilitated and did everything in my power to enable the work to continue uninterrupted, so I want to thank those members. These are experts who have been drawn from the society. Some of them are public servants and some of them are private citizens with their own very successful professional services.

Before I explain the working of the Bill before us, I want to deal with one particular area because I know that representatives from Tobago in this Senate will be concerned, as will be the Tobago House of Assembly, as to how this will impact on Tobago. As we are all aware, Tobago enjoys a degree of autonomy, internal self-government under an Act, and under constitutional provisions that give the Tobago House of Assembly that autonomy. I want to assure representatives of Tobago in the Senate that the Bill we are considering, and hopefully by later today, moving into legislation, does make provision in recognition of Tobago's autonomy.

If one has a copy of the printed version, those who are interested, on page 26, which is, in fact, clause 6(1)(g), reads:

"The principal functions of the Commission are—

- (g) to consider and determine applications for permission for the development of land under Part IV in respect of any matter that is not subject to the jurisdiction of the Tobago House of Assembly, by virtue of the Tobago House of Assembly Act,..."

So, the functions of the National Physical Planning Commission recognized that Tobago enjoys autonomy under the Tobago House of Assembly Act.

If one goes to page 36 of the printed version, clause 18(1) says:

"The Minister may, after consultation with the Commission, by instrument in writing and subject to such conditions, directions, reservations and restrictions as the Minister considers appropriate, appoint for the purpose of preparing a development plan, other than a development plan for all of Trinidad and Tobago or for the island of Tobago—"

In other words, the Minister cannot interfere with the development plan for all Trinidad and Tobago, which is the role and function of the National Physical

Planning Commission and which has to come to Parliament. So that becomes law and cannot interfere with the plan for Tobago, which is the responsibility of the Tobago House of Assembly. So there again, specific provision is made in recognition of the autonomy of Tobago. I thought I would point that out.

The other area that I want to draw the attention of members to is that, in the past the state's role has been that of development control and it has been of a reactive role in that citizens who had projects of development would propose those projects to the state and the state's role was to control; either approve or reject. But the state never saw itself as a facilitator of the private sector in actually enabling the projects. This Bill sees certain development control as a very important aspect of physical development, but it also sees the need for proactive planning so that the Town and Country Planning Division, as presently structured, will be reformed as we have promised, to continue to act as a development control division, but its professional cadre will be enhanced to enable it to proact as well with the private developers. So that when a developer has an idea, before he spends a cent of his money, he can meet with the professionals at the National Physical Planning Commission to discuss it and be guided. Too often we have seen tremendous expense being incurred by developers, only to find that they cannot get permission for the development and very often, if the developers are wealthy enough, they go ahead and develop and defy the legal authorities. We have seen it in the past, but we have to remedy many of those which we have in front of us today.

If Senators turn to page 32, clause 11, one will see where:

"The Commission shall appoint Standing Committees to deal with the following matters:

(a) the National Physical Development Plan;"

which I described, and was, in fact, a plan for the national development approved by Parliament; so that is a statutory plan. It goes on:

"(b) codes and standards;

(c) development control;

(d) national land-use policies and long term goals."

So in other words, we will have a commission that, in fact, has the responsibility of all matters that impact in any way on physical planning, the physical development process and the use of the land resources in that process. So it is a very expanded responsibility from that which was held by previous divisions.

Mr. Vice-President, in bringing this legislation into being, the Commission had to first examine the existing legislation, the Town and Country Planning Act, and on the basis of the representation on the Interim Commission there were members who had first-hand experience in the deficiencies in what presently exists. I have, and I want to ask your leave to share with members of the Senate, a detailed brief prepared by members of the Interim Commission to help us understand what is, in fact, a very, very complex piece of legislation. Do I have your leave, Mr. Vice-President?

Mr. Vice-President: You do.

Hon. J. Humphrey: It reads:

"The existing legislation, the Town and Country Planning Act, Chap. 35:01, was enacted in 1960 and brought into operation in 1969. It is based closely on English planning legislation as it was in 1947. Many of the provisions were out of date in their country of origin when introduced into Trinidad and Tobago.

The existing Act is narrow and limited in scope—

Key provision - s. 3 Power of the Minister"

That power is described as follows:

“the Minister shall secure consistency and continuity in the framing and execution of a comprehensive policy with respect to the use and development of all land in Trinidad & Tobago in accordance with a development plan prepared in accordance with the provisions of Part II.

Although that power is bestowed on the Minister, in practice it is exercised by public officers.

Planning is a complex area both as to applicable law and non-legal issues.

Historically, few ministers have had the time and the technical expertise to continuously monitor and exercise effective control over their officers.

11.00 a.m.

The old Act established an Advisory Town Planning Panel. But this entity has no supervisory role over the planning functions. It is just another group of advisers. The Minister already has advice from technical experts within his Ministry and presumably he could at any time seek advice from whatever sources

he chooses. In fact, most of the Panel's time is spent reviewing disputed decisions rendered in development control because the old Act does not provide for a formal appeals process.

Development Plan Preparation: Part II of the old Act requires the Minister to submit to Parliament a development plan dealing with the present and future uses of land. The old Act is silent on issues of economic development, social development, environmental matters and regional planning.

Similarly, although the old Act provides for the making of plans for parts of Trinidad and Tobago prior to completion of a plan for the whole of Trinidad and Tobago, it contains no provision dealing with the making of development plans for parts of Trinidad and Tobago after a national development plan is prepared.

Most importantly, while the old Act requires the Minister to consult with local authorities in the area in which a development plan is being prepared, and the Minister can consult with other persons and bodies 'as he thinks fit' (s.7), the Minister alone is authorized to prepare plans - Communities are not permitted to plan for themselves.

To become legally effective, every development plan has to be submitted by the Minister for approval by affirmative resolution of Parliament.

Over the years, no government has found it feasible to set aside the required parliamentary time for debate on the significant number of local area plans prepared by TCP and, therefore, these plans have never achieved full legitimacy”.

Mr. Vice-President, they are legitimate plans in terms of their competence, but unfortunately because of the way the Act is framed they do not have the sanction of Parliament so they are not part of the law.

“The old Act does not provide for the range of different types of plans that need to be prepared for effective development planning. It directs that all plans be prepared by the same procedures and with very much the same level of detail.

In practice of physical planning there is need for—

- A. policy oriented strategy documents, and
- B. local plans - land-use focused documents.

Development Control: Part III of the old Act deals with Development Control. Here is found the machinery for translating the policies and proposals embodied in Development Plans into projects and national transformation.

The powers provided to secure implementation of the Minister's development policies and proposals are quite limited. They focus on the control of development initiatives.

All development as defined in section 8(2) requires permission under the Act. Agriculture is excluded from the concept of 'development'. Accordingly, intensive animal husbandry and 'factory farming' do not require permission. In fact, we have seen the nuisances that some of these processes—especially animal processes—have on residential communities.

Developments in agricultural techniques and practices have outstripped the law.

The criteria on which grant of permission is based are not clearly stated in the old Act—presumably the development plan is relevant but what other factors are relevant?

The old Act imposes no requirement to seek the views of persons likely to be affected by introduction of new development in their neighbourhood when determining applications for planning permission. The old Act provides no systems of appeal from routine decisions taken by officers in the name of the Minister.

The old Act recognizes that effective control of development would be impossible if compensation had to be paid whenever a property owner was told he could not develop his land as he wished. Accordingly, in part IV, it prescribes a variety of broad general circumstances that exclude any right to compensation thus ensuring that compensation would seldom be payable when permission to develop is refused or unfavourable conditions are imposed.

The Privy Council decision in the Lopinot Limestone Case (holding that compensation was payable upon refusal of permission to operate a quarry because mining is not a 'use' of land) negates that general strategy for facilitating the regulation of development. There is urgent need for legislative change in this area."

That has been taken into account in the drafting of the new Bill.

"In the field of enforcement there are no 'stop orders'. The old Act provides for service of Enforcement Notices which allow for considerable delay before notice takes effect and for still further dilatory strategies in the court system.

General lack of mechanisms in the old Act for promoting development in communities, the only effective power is to acquire land compulsorily or otherwise and turn it over to persons prepared to develop in accordance with the plan.

How Does This Bill Address Shortcomings?

In a new Purpose Clause, the Bill for the new Act (clause 3) signals its concerns with goals more fundamental than the traditional focus on land-use issues. It focuses on people.

Clause 3(1) cites 10 people-focused aims of the new Bill and 3(2) directs that the Act be interpreted and applied in furtherance of those aims.

The Minister is still a key figure in the new Act but his concern is largely with policy direction—ensuring that Government's social, economic, environmental, cultural and other policies are reflected in planning and development programmes pursued under the Act.

Day to day administration of the planning system is entrusted to a Commission of experts drawn from the public and private sectors comprising stakeholders as well as community based organizations.

The National Physical Planning Commission; its composition; its functions and duties. For major projects, the Commission would function as a 'One Stop Shop' coordinating the input of other agencies involved in the development approval process.

Its principal officers and committees:

Administration of planning and development under the new Act: Under the new Act the exclusive power now vested in the Minister would be diffused still further—

Local Government and communities (including Tobago House of Assembly) would be accorded major new roles in physical planning and development.

The Bill provides for:

- (1) the devolution of preparation of local area plans, and development control to Municipal Councils; and
- (2) the replacement of the existing Streets and Buildings Bye-laws by modern Building Codes (for building construction and infrastructure installation); these would be locally administered but centrally supervised by a Chief Building Officer in the Commission.

The existing Streets and Buildings Bye-laws were made under either the Public Health Ordinance or under the now repealed old municipal ordinances. Existing bye-laws have long been very much out of date.

Preparation of development plans: The Bill recognizes the need to provide for different varieties of plans. The National Physical Development Plan prepared for the whole of Trinidad and Tobago must be prepared by the Commission and must focus on—

- (a) issues of national policy and the coordination of functions;
- (b) identifying problems and opportunities created by demographic change and industrial and other activity;
- (c) adoption of strategies for exploiting resources and opportunities and minimizing environmental land-use problems resulting from human activity;

The National Physical Development Plan must be consistent with the social, economic, regional, environmental and cultural policies of the Government. It must provide the policy framework within which regional and local planning would occur; and must comprehensively draw together and link the functional plans prepared by individual sectoral agencies. Other plans might be prepared either by the Commission or by a Planning Authority appointed for that purpose by the Minister. Consistency and complementarity between plans is ensured by directing firstly, as stated in clause 18(3) that:

‘A primary focus of any local development plan shall be the detailing, coordination, and implementation of the National Physical Development Plan at the local level.’

And secondly, as stated in clause 27(5):

‘by requiring that the Commission certify that the local area plan ‘...conforms with the National Physical Development Plan and that in its preparation, the requirements of the Act have been satisfied.’

In appointing a Planning Authority to prepare a local area plan, the Minister is empowered to provide quite detailed directions as to the matters, the scope, and the manner in which the plan would be prepared. The Bill also details the steps of plan preparation and subsequent plan review. While, NPDP would still require affirmative resolution of Parliament, other development plans are subject only to negative resolution procedure.

Timeliness of Plans: The Bill recognizes that to be useful, development plans be timely as well as relevant. A perfect plan that is five years late can have little significance for national development. Accordingly, clause 26 would allow plans to be adopted and implemented even though all steps have not been followed to the letter.

Development Controls: In keeping with the comments made above, the definition of 'development' has been adjusted to permit the control of significant land form transformation for agriculture purposes. Firstly, by expressly including in the definition 'building, engineering, mining or other operations whether or not used for agricultural, forestry, or aqua culture;' and secondly, by empowering the Minister to prescribe by Order such agricultural activities as are not to be deemed excluded from the definition of 'development' and therefore subject to planning control.

Bad Neighbour Applications: Under the new Act, applications for permission to establish 'bad neighbour' uses must be publicised. The new Act lists the factors to be taken into account when determining an application for planning permission (clause 40) and in clause 41, it lists the matters that can be made conditions;

Outline Development Approval:

The Bill abandons the concept of outline planning permission contained in the old Act. Private practitioners as well as regulators agree that what is required is an indication of what a relevant plan and current policy permit. That indication need not confer development rights. Clause 43 in the Bill provides for the issue of Outline development approval which would constitute 'approval in principle.'"

Mr. Vice-President, anyone who has been engaged in developing any property will have gone through the difficulty of firstly, getting outline planning permission, and that permission, since it binds the state, has to be spelt out in great detail, what can and cannot be done. It is a time-consuming process. Therefore, even when applicants seek outline planning permission, a lot of time elapses and very often that permission is not granted. What the applicant would then do is appeal to the Minister.

In the past, the Minister assembled his advisory town planning panel and went through those appeals. Then of course, under the old Act, the Minister's word was final. It is not a satisfactory process. It has caused many projects to get sour, because very often when funding is located for a project and it takes three or four years to be concretized, the cost of the funds have been so exorbitant or the lenders of the funds may have found better opportunities and the funds may be withdrawn. Many private developers know the frustrations.

Those frustrations have not come because of unwilling officers. For many years I was very critical of the Town and Country Planning Division because I am a practitioner, designing buildings. But it is when you get into the saddle you realize how the horse behaves.

11.15 a.m.

Mr. Vice-President, I want to compliment the officers of the Town and Country Planning Division who are very competent, professional and hardworking and who, with this new legislation, will have a much easier time of applying their competence and professionalism in the whole process of physical development.

“Other new devices assuring greater flexibility and effectiveness in Development Control introduced by the new Bill are—

Planning Agreements (clause 45)

Performance Bonds (clause 46)”

There has been some public criticism about the principles of planning agreements, but I am sure if Members examine the clauses, they will realize what happens when the state invests very large sums of money in improving infrastructure.

For example, when a road was built on the North Coast of Trinidad where agriculturists had to access those roads, either by footpath or by boat, that road greatly enhanced the facility of the land in that area. Very often, the state needs to talk to private land owners in cases like that, so that some compensation, either by sharing in the cost of the new infrastructure, or by compensating the state with land can, in fact, be agreed upon.

Performance bonds in clause 46 are necessary in some instances, so as to control development. Members of this honourable Senate will have seen, for example, hillside developments where the very first thing the developer does is take a bulldozer and cut every tree then, after having cut the trees and pushed them aside in a heap and burnt them, they then carve up the land into roads. Very often, this not only creates a hazard for those who buy the land to build their homes, but it creates a hazard for the Government and people in lower areas because of all the silting of the watercourses and the flooding that results.

The National Physical Planning Commission now has the power to ensure that does not happen. In fact, there is specific provision in the Bill for the protection of

trees. We have recognized how valuable trees are to the life of not only human beings, but every living thing on the face of the planet.

Sen. Rev. Teelucksingh: May I ask a question, Mr. Vice-President. WASA is responsible for that. Why is it that for years this has been permitted and who will sit—the Minister just talked about Town and Country Planning and we praise them. I agree with you. What about the Minister responsible? What about Government's responsibility? Who will sit to see this happening and just allow it to happen? For years this has been going on.

Hon. J. Humphrey: Mr. Vice-President, I have to agree with that. That is why I pointed it out. We have seen, for example, projects undertaken with the guidance of the state. I could draw attention to two. One on the Lady Young Road where land was carved up for filling an area of the city and the terraces have been left as an ugly feature of the mountainscape. Under this new Bill, that cannot happen. Sen. Teelucksingh asked the question: Who will be responsible? A commission of very competent people, both from the state sector and from the private sector will be responsible. That commission is the key to the success of this piece of legislation.

Sen. Mahabir-Wyatt: Through you, Mr. Vice-President, I wonder if the Minister could tell us before he winds up, who is going to enforce the decisions of this commission, because I think we are all just as concerned as the hon. Minister is and we do not want to see that kind of thing happen anymore. But, if nobody listened to Town and Country Planning, why will people listen to the commission?

Hon. J. Humphrey: Under the new Bill, there is now an Appeals Tribunal. There was never one before. In fact, what happened previously is that the advisory town planning panel to the Minister constituted the appeals panel and the Act never saw it in that way, so it was done in that way to facilitate a process. There is now a tribunal with quasi-judicial powers but we have retained reversion to the courts in settlement of any dispute.

The Bill spells it out in some detail. Whereas the Town and Country Planning Act never spelt out the details that empowered the state to control development, this Bill does that. I agree that bad habits are hard to break, but if the citizens, by and large, are concerned, then what they need to do is express that concern. I think there is tremendous improvement because what has been brought into the physical planning process and the development control process is more citizen participation. Experts have been brought into the commission representing groups of citizens.

The other thing about this Bill is that it requires development plans to be taken to the public, whereas that was never a requirement in the past. So, citizens will have an opportunity to make an input into how this country is transformed physically.

I continue to quote from the document:

“Development Completion Notices (clause 51) to secure completion of development or the cancellation of the permission that authorizes it where the development is abandoned. Such notices would not apply to the construction or enlargement of single family dwellings.

Immediate Compliance Orders is served in order to prevent or remedy a breach of development control

Environment repair Order served where there is a risk of serious risk of injury or damage to property or environment hazard.”

So there is an environment repair order under this legislation and if a developer who submits a plan for developing, for example, a hillscape, indicates in that plan that trees will be conserved and, in executing the project, removes the trees; under the Bill, that person can be penalized for doing so and can be made to repair the damage, which will be difficult, but not impossible.

Sen. Prof. Kenny: Mr. Vice-President, just a little clarification. Does the existing Town and Country Planning Act not provide for tree preservation orders? I think the words are “tree crops or woodland” in the existing Act. Is this not so?

Hon. J. Humphrey: The existing Act provides, but it does not have the teeth to enforce. This is the problem.

Sen. Prof. Kenny: The Minister...

Hon. J. Humphrey: The hon. Senator is suggesting that the Minister should have the teeth but, if the hon. Senator became a Minister, he would realize that there is so much chewing to do that the teeth get very dull.

“Requirement that Grant of Permission be permanently displayed on site while development is in progress.”

This will demonstrate to all citizens that this development does have planning approval.

“Provision for environmental impact assessments.”

Again, the environment is of concern to all human beings and, in fact, to all living creatures on the planet, but it is only in recent times that, generally, environmental matters are brought to the consciousness of the average citizen. We have known for very many years, that our experts have been clamouring for environmental management, for protection of eco-systems and to ensure that there is a balance between man's living on the planet and the planet providing for all living creatures that has to be maintained.

In fact, I do not think there is a child coming out of school today who would not be aware that there needs to be sustainable development so that future generations can enjoy the world in which we live. But environment now has, not only a focus of the new legislation, there is a division set aside with legislation being prepared specifically and the laws being framed for protection of the environment have been recognized in this Bill. So, this Bill actually extends to the section of Government activity which deals with environmental matters.

Part V of the Bill:

“Provides for the establishment and enforcement of development standards through the adoption of building codes and development codes.”

That is to be found in clause 61.

“A building permit must be issued if planning permission has been granted and the building plans conform with the requirements of the relevant code.”

That is clause 64.

“The codes will replace the Streets and Building Byelaws currently in force.”

This is something that other countries have had for a long time and that is a role for the professionals to actually participate in the whole process of, not just physical planning, but also approvals and development control on a wider basis. What the Bill does is recognizes that professionals who are registered with the commission will have the power that is delegated by the commission to produce plans which are approved as they are produced.

“The Bill would provide for the expedition of approvals by submissions prepared by ‘listed professionals’ with appropriate safeguards to ensure that public safety and health interests are not compromised.

The issuer of a permit or completion certificate is to rely on the certification of a listed professional that submitted plans and completed works comply with relevant prescribed national standards.”

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Mr. Vice-President, the way this will be done is that the commission will have a list of registered professionals drawn up by the professional associations that recommend their membership which is then very carefully finalized, and those professionals will have the delegated authority of the commission to ensure compliance with the National Physical Development Plan and the code of standards that have to be produced. If those professionals do not comply, then they can be de-registered. That is provided for.

Now there is a planning and development appeals board which is to be found in Part VII.

“The Bill would establish an expert tribunal with jurisdiction to hear appeals in development control matters.”

Finally, in Part VIII:

“The Act would bind the State.”

Sen. Prof. Spence: Mr. Vice-President, I wonder if I could ask the hon. Minister to go over again the section on agriculture that he read out from that document, because I found it somewhat confusing. It was not clear to me precisely what he was saying with respect to the control of agricultural lands.

Hon. J. Humphrey: What I said is that the present Act really does not provide for the planning of agricultural lands. This Bill does; it recognizes agriculture for what it is and it includes agriculture as a very important factor planner.

11.30 a.m.

Under the present Act, for example, the area zoned for agriculture cannot be used for any other purpose. What we found in the past is that people who live in one area have leased an area for agricultural purposes and are not even permitted to build a little lean-to when they are preparing for reaping crop. What we recognize is the need for people to live on the agricultural allotments so that the families can optimize the returns from the land and so enjoy a much higher degree of security. But all that has to be in the context of proper planning.

Sen. Prof. Spence: My understanding, Mr. Vice-President, is that one can build an owner's house and a manager's property. Two properties are permitted on any agricultural holding under the present legislation.

Hon. J. Humphrey: I do not think that is correct. That is why we have seen in the past—[*Interruption*] On private agricultural holdings but not on state agricultural holdings. You need the permission of the state because there is a lease and there are conditions of the lease.

I think Senators need to appreciate that a very large percentage of the productive agricultural land in the country is state-owned and those are very stringent conditions.

Sen. Yuille-Williams: Mr. Vice-President, the hon. Minister has just mentioned section 1—Appeal to the Court of Appeal. Could the Minister just go a bit deeper into that for me please?

Hon. J. Humphrey: Clause?

Sen. Yuille-Williams: Sorry, clause 98(1).

Hon. J. Humphrey: Mr. Vice-President, we had amendments in the House and unfortunately, the Bill that was brought to the Senate did not include those amendments. So to read the Bill as it presently stands, you need to read both the Bill and the amendments and it is very difficult to do that. [*Interruption*] Mr. Vice-President, I understand that I have exhausted my time.

Mr. Vice-President: Mr. Minister, you, in fact, have a few more minutes left. I thought I would let you know that in view of some of the interruptions that you may have been exposed to, I would allow seven more minutes in your presentation, so just bear in mind.

Hon. J. Humphrey: Mr. Vice-President, that would be adequate. Clause 98(1) reads:

“The Commission, a Planning Authority or a person entitled to appeal to the Board under sections 94 or 95 may, with the leave of the Judge of a Court of Appeal or upon the certificate of the Board that the case is a proper case for appeal, appeal a decision of the Board to the Court of Appeal on a question of law.”

There is a tribunal that seeks to resolve disputes. But if there is a matter of law that cannot be resolved by the tribunal, the citizen or corporate body can appeal to the court, but on matters of law. Matters outside the law will be resolved at the tribunal with no need for appeal. Is that satisfactory?

Mr. Vice-President, I am actually finished with my presentation of introducing the Bill. However, we have with us key members of the Interim Commission. I have made arrangements that any Member of the Senate who would wish to meet with them privately for any elucidation of any matter pertaining to the Bill, they would be very happy to oblige. We do have the committee rooms if Senators would wish to have further consultations, members of the commission have volunteered to make things available.

Sen. Dr. Mc Kenzie: Mr. Vice-President, I would just like to ask the hon. Minister a question before he makes his final statement. I have observed through the Bill, that there are a lot of legal matters. Why is there not a lawyer on the First Schedule? I have not seen any legal mind as a member of the commission, whether as a full-bodied person or in an ex-officio capacity. Why are there no legal minds and there is so much money to be paid—to go to jail; to pay \$2,000 fine and what not. I would like to hear the Minister's comments.

Hon. J. Humphrey: I can assure Senators that on the Interim Commission that did the work to bring this legislation, we had in fact, what is considered the finest legal mind on land law in the country. Although it is not framed for a particular position to be held, it is recognized that a legal consultant is absolutely necessary. So that is clearly recognized.

Mr. Vice-President, with that contribution, I beg to move.

Question proposed.

Sen. Nafeesa Mohammed: Mr. Vice-President, I would just like to indicate how happy I am to participate in the debate of this very significant piece of legislation which is referred to as the Planning and Development of Land Act.

Mr. Vice-President, I sat here for the past hour listening to the hon. Minister of Housing and Settlements as he presented this Bill. In his last few comments I was certainly taken aback, in that the Minister mentioned that there are members of the Interim Planning Commission who are present and who will be available to meet with any Senator with respect to any aspect of this Bill that we may need some clarification on. I say that I am taken aback by this statement because it certainly goes contrary to what parliamentary norms and procedures are as far as I understand them to be.

We are assembled here to debate a very important piece of legislation, a Bill that is very long—some 121 pages in the Bill that I have before me. It contains 110

clauses and there are three Schedules attached to this Bill. Given the fact that this Bill is seeking to bring about fundamental changes with respect to Trinidad and Tobago, one would have expected that the hon. Minister would have instead been announcing that this Bill will, in fact, be referred to a Select Committee, and more particularly, a Joint Select Committee of the Parliament. [*Desk thumping*] Certainly, this call was made in the other place when the debate took place some time ago. We on this side certainly wish to repeat that call for this Bill to be referred to a Select Committee of Parliament. I say select because I am not too sure in terms of the mechanics of a Joint Select Committee but certainly, that would be the ideal position, for there to be a Joint Select Committee of Parliament to deal with aspects of this Bill.

I say this because in the past the tradition has been that when there is legislation with such far-reaching consequences, and especially legislation contained in a Bill that is so detailed—at first blush, it certainly is not a user-friendly Bill. Just a while ago Sen. Mc Kenzie asked whether there was a legal person involved in this legislation. Even with the finest of legal minds, this piece of legislation is really not an ordinary piece of legislation. It is the type of legislation that requires closer and more detailed scrutiny. That is why under our parliamentary procedures, particularly in the Standing Orders, provisions are made for the setting up of committees. This is a Government that came into power on a campaign of having transparency, consultation and has spoken at length about setting up committees and reforming Parliament.

Mr. Vice-President, if ever there was a need for a Bill to be referred to a committee, it is this particular piece of legislation, because that is where we would be able to give it the detailed kind of scrutiny and examination that is required. We have had the Bill for some time, granted, but at the same time there are many aspects to this Bill.

Before I go further, I wish to take this opportunity to congratulate all those persons who have been involved in the process that has led to this Bill being presented in Parliament. I say so because we know that for a number of years this legislation has been in the making. The hon. Minister did, in fact, make mention of the fact that there has been an Interim Planning Committee, and I know that many of these persons—I think it is more than 10 years they have actually been involved in the process. We on this side would certainly like to pay tribute to those hard-working men and women who have given of their time and service, and I understand on a voluntary basis. So we must say hats off to them. They have done

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their job and now it is our turn to do our job. That is why we are here today to look at this piece of legislation.

Mr. Vice-President, when we look at the Bill, we note that the objectives as set out in the Bill are certainly very laudable indeed. Referring to the title of the Bill, at page 4 of the Bill in my possession, because as the hon. Minister indicated there were amendments from the Lower House which I doubt very much are contained in the Bill I have here. If I may just refer to the title of this Bill, it says:

“An Act to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of land and the design, construction and occupation of buildings; to confer...the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid.”

A very long title indeed, but when we look at page 1, in the Explanatory Note, paragraph 1, in summary says:

“The main object of the Bill is to provide a legislative framework for reforming the administration of what, in Trinidad and Tobago, is traditionally referred to as ‘town and country planning.’”

Mr. Vice-President, we sat here and we heard the hon. Minister of Housing and Settlements begin his presentation by detailing some of the events that led to the debate here today. He referred to certain Cabinet decisions and certain dates were given. I think for the record, it should be noted that this particular piece of legislation—I think it was way back in the 1980s—this whole aspect of the planning and development of land in Trinidad and Tobago, that discussions were taking place with a view to reforming the law as it exists.

What is very significant to note is that in 1991, even when the government of the day had changed, the then administration continued the work that was taking place with respect to reforming and updating the laws pertaining to planning and development of land. Particularly, I wish to put it on record, that our former Minister of Planning and Development, Dr. Lenny Saith, himself played a very significant role in the development of this particular piece of legislation. So what is happening here today is a continuation of works that have been in the making for some time. Successive governments have been attempting to grapple with the problems.

Mr. Vice-President, I make reference to this because it was rather unfortunate for the hon. Minister to come here this morning and to, in some respects, politicize the development of not just the legislation, but the whole issue of planning and development. The Minister commenced his presentation by referring to provisions in their manifesto, and I say hats off to him. It is perhaps the first time we are hearing about the Government implementing any of the promises they made in their manifesto.

Later on in his presentation, the hon. Minister went on to speak about the East/West Corridor and deliberate patterns of settlement for election purposes. I was taken aback by these comments because if anybody should be expressing concerns about deliberate patterns of settlement, it is we in the PNM at this point in time. Here we have the hon. Minister of Housing and Settlements making statements like these, yet it was the same Minister of Housing and Settlements who, not too recently, talked about merging Tunapuna and St. Augustine as a constituency, the very same Minister spoke about creating a new constituency in Central Trinidad. Now when we see the nature of this new piece of legislation, a piece of legislation that seeks to give the Minister—and I am not saying this is applicable to all Ministers, but given the track record of this present Minister, we have to be very concerned.

Here we have a piece of legislation that is going to reform the whole system of land holding in Trinidad and Tobago. Obviously, it can affect the demographics of the nation and we as a political party, the legitimate and official Opposition in Trinidad and Tobago, have to be very concerned and we have to express our concerns on this. What I find very ironic is that the hon. Minister went on to blame past planners and talk about the white elephants being built.

I remember in 1986 when the Mount Hope Medical Complex was just about being completed, so many people talked about the white elephant called Mount Hope Medical Complex. Today that complex is a place that is respected, not just in Trinidad and Tobago, regionally and internationally as well. I know that whenever there are visitors from abroad, that is one of the institutions they are taken to visit. We feel proud of the work that we have done.

Mr. Vice-President, what I find is very unfortunate is that the hon. Minister sought to attack past planners. This has to be construed as an attack on those persons, who for a number of years, have been involved in the planning process, not just the politicians. Later on in the Minister's presentation, whilst on one hand he is blaming the past planners, on the other hand he went on to read from a brief

that outlined the history involving the town and country planning legislation and he highlighted the numerous shortcomings and deficiencies with the Act thereby contradicting his previous statement.

The reality is that there are very serious problems associated with planning and development in the country and a lot of the shortcomings we acknowledge and we recognize have to do with the legislation that is in our statute books. We know, we accept the fact that there are problems associated with the Town and Country Planning Act in its present form. Therefore, when the Minister talks about reactionary approach, we can empathize with that situation because it is because of these shortcomings that you have had problems until the past, particularly with enforcement of the various measures in the Act.

If today, we have a piece of legislation that seeks to introduce a more proactive approach towards planning and development in Trinidad and Tobago, we certainly welcome it. We on this side would like to give our fullest support to this particular piece of legislation. We want to see this whole area dealt with because it is something that needs to be tackled.

11.50 a.m.

Certainly, given the nature of the Bill that is before us, I wish to reiterate our position that this Bill ought to be before a Joint Select Committee of Parliament so that we can have a more detailed scrutiny of it.

Mr. Vice-President, you would remember not too long ago when the Tobago House of Assembly Bill was being debated here, it was referred to a Joint Select Committee of Parliament. When one looks, for example, at the 1995 Companies Bill that was passed just before the PNM administration came out of government that Bill as well was referred to a Joint Select Committee of Parliament. In fact, when this administration came in amendments were made and we know today that Bill is now law.

So that our position, Mr. Vice-President, is that when there is significant legislation like this, we really would have preferred to have had the opportunity to interact with the very same experts and professionals, who today comprise the Interim National Planning Commission, as a committee. For the record—and it is no secret—we as a political organization did have some discussions with the Interim National Planning Commission's members and we welcomed the opportunity to share some of our thoughts but some of the issues raised continue

to remain unresolved. Today, the hon. Minister presented the Bill and I do not think that there has been reference to some of the major issues that we are concerned about.

Mr. Humphrey: Mr. Vice-President, could the hon. Senator enumerate those issues so that we can, in fact, deal with them?

Sen. N. Mohammed: I was about to move on to that, Mr. Vice-President, because it is not my intention to go through this Bill clause by clause. Certainly, what I do recall is that in the course of our discussions, one of the major concerns we had with this piece of legislation is with respect to the role of the local government bodies in the planning and development process.

Mr. Vice-President, whether one is an architect, engineer or lawyer, persons who are involved whether it is in the construction of houses or the subdivision of lands, would recognize that the procedure involved for obtaining approvals to develop land or build houses is a very long, drawn-out, cumbersome procedure. We recognize that. This is why this attempt at updating the law is a welcome move.

One of the realities is that in the actual process that is involved, when a person, for example, is seeking to subdivide a parcel of land it is necessary that one applies for permission from the Town and Country Planning Division. If it is that one intends to build a house on that parcel of land one has to submit all one's plans and so forth to the relevant authorities. What has been happening is that when one submits an application, plans and so forth, the procedure involves going from one place to a next until eventually it gets to your local government body.

Mr. Vice-President, the important thing is that it is at the local government level that one has the greatest opportunity for monitoring or at least examining the particular plans to ensure that all public health requirements are being complied with. We know the process is a long, drawn-out one and I am concerned. Here it is on the one hand the hon. Minister talks about expanding the role of the local government authorities, but expanding it in what way and in what respect? You are expanding it in the context of developing plans. What about the actual process of granting approvals? Would the local government bodies still have a role to play in that process? It is a bit contradictory because under the Municipal Corporations Act of 1990 we know that the whole thrust has been for there to be greater decentralization and devolution of power, even though nowadays the present regime seems to have a tendency to always be interfering with these local

government bodies for the sake of creating mischief instead of giving these bodies the autonomy to do the job they are supposed to do. We have a classic example taking place right now with the happenings at the Arima Borough Council.

Mr. Vice-President, when we look at the provisions in the Bill—I do not know, perhaps the hon. Minister will be able to clarify it—we see that the commission that is going to be established, shall appoint a director of planning and there will be a chief building officer and a secretary, a legal officer and so forth. From that I gather that the chief building officer will be the person in charge of all other building officers. I do not know how it is going to operate; whether it is that in all the regional corporations there are going to be other building officers. It involves having to recruit more staff, certainly.

At the end of the day, however, all these officers may well be accountable to that one chief building officer. So, on the one hand you talk about expanding the role of the local government authority and on the other hand what you have in effect is a centralization of power that is taking place with respect to the commission and who will be accountable to the commission. That certainly is an area of concern.

The other aspect of it involves the local government authority—because I am sure the hon. Minister would want to make reference to it—that is there is a one-year period. I recall seeing somewhere in the Bill, reference to a one-year period within which all efforts should be made for these local government authorities to have their development plans. What happens in the meanwhile? It is a kind of transition that seems to be intended but what is going to happen in the meanwhile? What about if this Bill were to become law tomorrow? What is going to happen to all those persons who have applications pending? What procedures are they going to adopt?

Mr. Vice-President, our concern is that the local government authorities should be involved in the process and the Bill is not very clear in terms of the role of these local government bodies and we feel that it is an issue that needs to be clarified. Perhaps, if this Bill were being dealt with in a Joint Select Committee of Parliament we would have been able to have the opportunity to interact with those persons involved in local government in order to see if some kind of clarification could be obtained.

There is another aspect of the Bill, Mr. Vice-President. It is just a general observation. That is, the enormous amount of powers that are being entrusted to

the minister, whoever the minister may be. It is not just the powers going to the minister. Even in the subsequent provisions. Clause 3 of the Bill sets out the objects and purposes of the Bill. When one looks at clause 4(1), the minister is responsible for securing the objects set out in clause 3 for the due administration of this Bill and in the exercise of these powers and responsibilities the minister may do all things necessary or convenient. So the minister can go to Tunapuna and announce that Tunapuna and St. Augustine would be one.

12.00 noon:

Mr. Vice-President, apart from that, there is another aspect. Under the law as it exists today on the question of enforcement powers, there are procedures that if the present Act is being breached that action can be taken in the Magistrate's Court. We know that the system is very cumbersome and so forth. But, in this draft piece of legislation we notice that those provisions which deal with enforcement powers are very subjective. For example, when one looks at clause 50 of this Bill—and I am linking this to the statement I made about the enormous powers being vested in the minister—which deals with the revocation or modification of permission to develop land. It says:

“(1) Subject to subsections (2) to (7), if, in the opinion of the Minister and having regard to the provision of subsection 40(1), (2) and (3), it is advisable that any permission to develop land or any outlined development approval be revoked or modified, the Minister may by order revoke or modify the permission or outline development approval.”

This is a case where, if the minister for some reason, whether it is political or otherwise, is against a particular developer it is very easy if permission has already been granted he has the power to revoke that permission. The hon. Minister spoke about the appeal procedures a while ago from clauses 95 onwards, but when one looks at these appeal procedures—he himself said that there would be a tribunal and it is only on matters of law that one can have a matter referred to the Court of Appeal. But, there are so many other aspects to this. In this Bill, there is talk of compensation. When one has to determine issues of damages, how are you going to calculate damages? I believe clause 97 is relevant to that issue.

“(1) No court shall order any damages payable to any appellant who has been successful or partially successful...”

What we notice is that there is a lot of room for arbitrariness in terms of the approval process and the revocation of approvals and indeed, in terms of the

enforcement measures we are not satisfied that proper procedures are, in fact, in place.

Mr. Vice-President, I just wish to go back a bit in the Bill. I think it is Part IV that deals with development control and the development of land. I think the hon. Minister made reference to clause 35(2)(a) and it refers here that:

“Notwithstanding subsection (1), the following operations or uses of land shall, for the purposes of this Act, be deemed not to be development of land—

- (a) carrying out works for the maintenance, improvement or other alteration of any building, if the works affect only the interior of the building or do not materially affect the external appearance of the building and do not involve a material change in use;”

I refer to this clause in the context of a present, almost crisis situation that we have on our hands and I say we, because it is a matter which affects all of us. We know that whenever a heavy shower of rain comes down that this building, the Red House, is liable to leak. I know for a fact that some Senators have, in fact, skidded on the corridor right outside this Chamber and fortunately, no major damages have been suffered. Whenever the rain falls one can see pools of water throughout this building. Just last month I recall after a heavy downfall it was disheartening to see the kind of damage to the curtains and all the expensive finery and drapery that was put in the tea room at the instigation of Sen. Daly, for the records. All the curtains came down and, in fact, in that beautifully redesigned and redecorated tea room the place was being damaged.

It highlights the fact that this Red House building is in urgent need of repair and we have been speaking about it time and time again. We are accustomed seeing the big yellow tarpaulin on the roof top, we know that major works have to be carried out and we know that some efforts are being made, but it is so slow in coming and what concerns me is what plans—excuse me, Mr. Vice-President, I would not say what plans because I think the plans are already in place to have the Land Registry, which is housed downstairs of this Red House, relocated to a building that was formerly occupied by the Canadian Embassy and now it is referred to as the Huggins Building. We on this side are certainly curious to know who presently owns that particular building and certainly we are investigating this.

Mr. Humphrey: Maritime.

Sen. N. Mohammed: Mr. Vice-President, what is interesting is that we have been hearing that there are plans to relocate the Registrar General's Department from downstairs of the Red House to that particular building and we must express our concern. We are in support of the renovation works which have to be carried out and if it is that some relocation has to take place, we would like to see that all efforts are made to ensure that the valuable records and documents which are kept downstairs in the vault of the Red House are properly protected, preserved and housed in a place that is suitable for those records. I say this, because those of us who are attorneys-at-law would know that when it is time to do a conveyance for one's client, one of the requirements is that one must carry out a search on the title to the property, and, all our records pertaining to land holdings in Trinidad and Tobago are kept here in this building in a vault.

We have heard talk that in this Huggins building plans —I do not know if the actual work is being carried out, but there are plans to have a vault installed in that building. All well and good but we would like to know more in terms of the capacity of that building to house this vault and certainly, to house those valuable books because one of those volumes is a huge book and it is very heavy and there are probably thousands of those books. Records that go way back to the 19th Century involving land holdings in our country which will have to be relocated.

We would like to know what efforts are being made to properly house those records and certainly, I raise this issue in the context that clause 35(2)(a) of the Bill seeks to remove that procedure for the inspection of buildings in certain situations.

12.10 p.m.

In the case of the Huggins Building, there is a need to have proper inspection and monitoring of the alterations of the building which it is planned would house the Register General's Department and we want to call on the Government to ensure that proper steps are taken.

Mr. Vice-President, apart from these valuable records, there is another issue I am asking the Government to take note of and that is, the fact that in many of these books, there are numerous reports of pages actually being detached from the volume. Whatever the problem is, there is need for special attention to be placed on preserving the books, especially if you are talking about relocation. We want to ensure that proper machinery is put in place to protect these books so that when a

volume is being taken out, like some deed from the year 1900 or 1912, which is so important to the development of a particular piece of land, it would not easily get lost. That is a very important and burning issue which affects many people.

As we talk about land, today we heard the hon. Minister talk about this Bill dealing with agriculture and land development for agricultural purposes. I must comment on the timeliness of this debate because just before I came to this Chamber this morning, I tuned in to a discussion which was taking place on the Morning Edition involving the rice farmers who had been farming the lands in Nariva and this is very relevant to the Bill which is before us.

Mr. Vice-President, since the 1980s some of these lands in a particular area in Nariva were granted to a group of farmers who began—not began, because rice had been planted in that area for a very long time but certainly on a larger scale—a rice development project. When the Government was changed in 1986, this rice farming continued to the extent that in 1991 when the former PNM administration assumed power, the actual area these farmers were farming had been developed to quite an extent. They were actually given a designated area which was not a prohibited area and were allowed to continue farming. Not too long after the present regime came into power, these farmers were, in fact, evicted from those lands.

I know this is a very delicate matter because it has to do with environmental concerns and this piece of legislation deals at length with environmental matters. I have raised it as an issue because on Friday last, there was almost a confrontation about to take place in the Nariva Swamp when equipment and personnel from the Ministry of Works and Transport went into the lands and the farmers were objecting to their going to block off the water courses and so forth. I listened to the discussion this morning, and I am merely appealing to the hon. Minister of Housing and Settlements and not just him, but certainly the Parliamentary Secretary in the Ministry of Agriculture, Land and Marine Resources because we understand the present Minister is out of the country at this time; but the Parliamentary Secretary is here, and certainly the Minister of Works and Transport. I make an appeal to them to please intervene in this matter with the same haste with which they had operated in the past in other respects.

I say this because here is a group of farmers who have been successfully engaged in producing rice in this country to the extent that over the years they have been occupying these lands, rice production actually increased in Trinidad and Tobago; but since they were evicted there has been a situation where rice

production in Trinidad and Tobago has fallen. In fact, not too long ago, we read where the mill had to be shut down because there was not enough paddy to put in the mill.

While all this is taking place, and with this shortfall in rice production, there is a situation where this Government proceeded to import rice and we know the disaster which had taken place, causing this country some \$30 million already in losses. Here is a group of legitimate persons, who are citizens capable of producing rice to satisfy the demands of our nation, yet, they have put a stop to these persons who were engaged in meaningful and successful agriculture, producing rice, which is a basic commodity to feed the population of Trinidad and Tobago. They are being pressured by the Minister of Agriculture, Food and Marine Resources and the present regime.

We understand the fact that there are certain environmental concerns—

Sen. Mark: Mr. Vice-President, on a point of order I refer to Standing Order 35(1). I think the speaker is totally irrelevant.

Mr. Vice-President: Notwithstanding the fact that the Minister in his presentation did mention that the Planning and Development Bill which we are presently debating, encompasses agriculture, I think the direction to which the Senator's contribution has led is, in fact, straying away from the Bill and its only relationship with the Bill is the word "agriculture". Therefore, I would invite the Senator to come back to the Bill. She can refer to agriculture to the extent that the Bill does cover agriculture, but not to the extent that everything relating to agriculture is to be introduced into the debate.

Sen. N. Mohammed: Thank you, Mr. Vice-President, I am guided by your comments.

I wish to refer to the provision in Part IV of the Bill which deals substantively with matters pertaining to the environment. If one looks at clauses 56 to 58, they are all in relation to the development of land in Trinidad and Tobago. There are extensive provisions dealing with environmental concerns and when one goes to the Second Schedule of the Bill, the entire Schedule deals with Development Control: Special Provisions, areas of special interests and here again we see where references are made to environmental impact assessments and so forth. I refer to these provisions in the Bill because they are very relevant to the issue which I was discussing a while ago involving the Nariva rice farmers because we have had many concerns expressed about the damage being done to the environment in that particular area.

What concerns me, is that two years have gone by and the environmental impact assessment which was supposed to have been done in that particular area was not done and today the farmers are complaining that they are totally unaware of a report. There is talk now of a report having been presented, but nobody has seen it, and I have raised this in an effort to highlight the plight of these farmers who are creating employment for the people of Trinidad and Tobago and who are producing basic food for the nation, and earning an honest and legitimate livelihood by planting rice in this area. I am asking the Government to look at this matter in an effort to do a balancing act and see if efforts can be made to encourage these farmers to carry out their legitimate activity in a manner which would enhance the environment which, I am informed, they have in fact, been doing.

Mr. Vice-President, I am told that when these farmers occupied these lands, there was an abundance of cascadura and other fishes in that particular area. In the wetland area, natural watercourses were created and encouraged the production of fish and other commodities. I am also told that because of the production of rice in these fields, there were a large number of birds and other species in that swamp area.

Mr. Vice-President: The speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. D. Montano*]

Question put and agreed to.

Sen. N. Mohammed: Thank you very much, Mr. Vice-President and I thank my colleagues for extending my time.

As I was saying, with respect to these environmental concerns which have been expressed, two years have gone by and to this day the farmers have not been kept advised as to the outcome of these concerns. I am calling on the Government to act with some haste in trying to resolve this impasse and do what it can to facilitate the farmers to continue to develop these lands.

Whilst we are talking about developing lands for agricultural purposes, I have to say this in the context of what transpired not too long ago. I distinctly remember when the present regime came into office and the hon. Minister of Housing and Settlements, in his usual style, was touring an area in Central Trinidad. He talked about reclaiming the lands and developing an island out in the sea near the Point

Lisas Industrial Estate and what I found ironic, was that he talked about the destruction of the hillside. In these plans I have even heard talk about the possibility of using the earth from the San Fernando Hill and filling that area near the Point Lisas Estate in the effort to expand Trinidad and Tobago out into the sea. I know the Minister means well, and his vision is way ahead of all of us in Trinidad and Tobago, but at the same time, one has to be very practical.

Before this Government came into office, there used to be complaints, and I remember the present Attorney General leading a massive demonstration in Central Trinidad complaining about the environmental hazards at Point Lisas and too many plants developing in that area, yet, as soon as they come into office, they are eager to take credit for the Point Lisas Industrial Estate and they talked about the fact that there is not enough space for the number of investors coming in and that is why they have to develop the lands in the sea. The same way they rushed to relocate a particular plant in the Point Lisas area within three months and all the approvals were obtained to facilitate these people, I am asking that that same kind of urgency be given to these farmers who had been farming the lands in Nariva and providing food for our nation. It is a balancing act which needs to be done and I have heard the farmers themselves indicate that they are willing to co-operate and work with the authorities in an effort to enhance the environment.

As the hon. Minister pointed out, long ago there was not that kind of heightened awareness in terms of environmental concerns. Today there is a greater awareness, a greater consciousness. In whatever we are doing let us be practical and see how a balancing act can be done so that all the people of Trinidad and Tobago would be able to benefit. It is rather coincidental that today the hon. Minister who is in charge of the Environmental Management Authority is here to answer certain questions. It is very relevant because here is a Bill which provides for all these environmental concerns and we must be concerned about the extent to which the Environmental Management Act is being implemented—whether it is by way of having rules and regulations, or by way of a commission, whatever it is.

12.25 p.m.

In talking about environmental assessment and what have you, the machinery must be put in place. Government has been in power for three years now and what is happening? Today it was an admission of their incompetence and failure in that respect.

Mr. Vice-President, as I continue, at the end of this Bill we note that there are provisions for the listing of buildings. I think there was, in fact, a clear-cut provision that referred to the provisions of the National Trust Act of Trinidad and Tobago. It is unfortunate that the hon. Minister of Gender Affairs, Sen. Dr. The Hon. Daphne Phillips, is not here today. I have had the privilege of being in a committee that has been looking at amendments to this National Trust Act which was passed since 1991, but because of impractical problems in its implementation it has not yet been proclaimed. Today we are talking about amendments to this particular Act.

One of the features of this Act is that it empowers the National Trust to list buildings that are of historical value and what have you, according to the definitions in the Act. I know for a fact that one of the greatest concerns we have had with this particular piece of legislation in an effort to put it on the statute books in a way that it will actually work, is that there is a lot of overlapping of jurisdiction. Here is a classic case of that kind of overlap. There is a whole section—I think it is in Schedule 2 to the Bill which deals with listed buildings in clause 9, it says:

“Notwithstanding the provisions of the National Trust of Trinidad and Tobago Act the Commission may cause to be compiled a list of buildings in Trinidad and Tobago which appear to be of special architectural or historical merit or interest, or may utilize such a list prepared by a body of persons...”

Clearly, Mr. Vice-President, these provisions need to be rationalized, especially against the background of the provisions in the National Trust Act and the proposed amendments that are presently being considered. What will eventually happen is that there would be two agencies with these powers to list buildings. This planning commission which will effectively be replacing the Town and Country Planning Division, will be a one-stop shop and it will have access to all the records and so forth. It may well be a useful one-stop shop in the context of providing the relevant information for the listing of buildings. There is need for some mechanism to provide that link with this National Planning Commission and the National Trust, otherwise it is going to be more chaos and confusion. At the end of the day, having gone through this Bill at a very cursory level, it seems to be a recipe for confusion. It is the most unusual piece of legislation I have seen in the context that it has so much detail, it seems to be embodying a lot of regulations as well, together with legislation, a very unusual situation.

While I know a lot of work, effort and energies have been expended in coming up with this draft Bill, I wish, Mr. Vice-President, before I take my seat, because I know my time is running out, to reiterate our call for this Bill to be referred to a Joint Select Committee. We are in support and in agreement with the intent of the legislation.

Mr. Humphrey: Does the Senator mean Joint Select or Select Committee of the Senate? The House has passed this Bill already.

Sen. N. Mohammed: Then, certainly a Select Committee of the Senate.

Mr. Vice-President, in terms of the object of the Bill, we view it to be very laudable, we see it as a continuation of works that has been going on for a number of years. We want to see that more pro-active approach in terms of dealing with planning and development matters. We welcome the legislation, yet at the same time, given the amount of detail in this particular Bill, we want that opportunity to scrutinize it at a closer level and, certainly, to be able to have the opportunity to interact and discuss with those experts in the field and other agencies that might be involved in the whole process. At the end of the day when this Bill is passed, we want to know that it is legislation that can work and will work and would not be legislation as the present Town and Country Planning Act which has been problematic in many respects as the hon. Minister has outlined in his presentation.

So Mr. Vice-President, I thank you for this opportunity.

Mr. Vice-President: It is now 12.30 p.m. I propose to take the lunch break at this point. We will be breaking for one hour from 12.30 p.m. to 1.30 p.m. and the Senate would resume at 1.30 p.m.

12.30 p.m.: *Sitting suspended.*

1.32 p.m.: *Sitting resumed.*

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, before we broke for lunch we were dealing with the debate on the Planning and Development of Land Bill, 1998. Earlier in the proceedings this morning, under item 8 on the Order Paper, we had deferred the answer to question No. 33 for one week. It has just been drawn to my attention that the hon. Minister of Tobago Affairs, who was not aware of the starting time of the proceedings, is now here with us. Rather than defer that question for one week—seeing that we have Sen. Mahabir-Wyatt and the Minister

Arrangement of Business
[MR. VICE-PRESIDENT]

Tuesday, August 18, 1998

here with us—I am wondering whether, with your leave, we could revert to item 8 to deal with question No. 33 before continuing the debate on the Bill with which we were dealing.

Agreed to.

ORAL ANSWER TO QUESTION

**Tobago House of Assembly
(Acquisition of Land)**

33. Sen. Diana Mahabir-Wyatt asked the Minister of Tobago Affairs:

Could the hon. Minister tell this House:

- (a) whether the Tobago House of Assembly has acquired lands from private citizens since 1996 and;
- (b) whether the THA has plans via the Sub-Intendant of State Lands to request the President to acquire lands on its behalf this year?

If the answers to (a) and (b) are in the affirmative, could the Minister state what purpose the acquisitions are intended to serve?

The Minister of Tobago Affairs (Dr. The Hon. Morgan Job): Mr. Vice-President, the hon. Senator is informed that the Tobago House of Assembly has not acquired lands from private citizens since 1996.

The Tobago House of Assembly has plans to acquire lands this year for the construction of a multi-faceted sports facility, including a sports stadium for the staging of the Under-17 FIFA JVC World Championship 2001 and other purposes associated with the stadium.

That is my complete answer to the question put to me.

Sen. Mahabir-Wyatt: Mr. Vice-President, I wonder if the hon. Minister could identify any other purposes for which acquisitions are intended to serve this year. Is the acquisition for the sports facilities and football stadium the only one of which the Minister knows?

Dr. The Hon. M. Job: Mr. Vice-President, I did not come prepared to answer any other question but the particular one in respect to acquiring lands from private citizens. I do not know if the hon. Senator would require that I answer a

subsequent question to deal with that, because I am not prepared, at this time, to advise her or the Senate concerning other private land acquisitions for other matters.

Sen. Mahabir-Wyatt: Mr. Vice-President, that is part (b) of the question. I was just asking the hon. Minister to confirm that no other acquisitions are planned for this year apart from sports facilities and the football stadium.

Dr. The Hon. M. Job: Mr. Vice-President, I interpreted the question to have to do with the land acquisition which is in process. I know that the Tobago House of Assembly has requested that I consider asking the Government to acquire lands for this specific purpose and I came here prepared to say so, which I did say. However, I am certain that if the hon. Senator requires me to do an Ombudsman's search on other properties that might be acquired for other public purposes in Tobago, I have no problem with that.

Mr. Vice-President: In view of the fact that part (b) of question No.33 does, in fact, appear to me to talk about any plans that the Tobago House of Assembly has for land acquisition, I am wondering, in view of the fact that the Minister has indicated his unpreparedness to deal with the extended version of the question as it is now, whether that particular sub-question could be deferred for one week and he would come back next week prepared to respond in full to part (b) of that question. Would that be satisfactory, Sen. Mahabir-Wyatt?

Sen. Mahabir-Watt: Yes, Mr. Vice-President.

Mr. Vice-President: Hon. Senators, we would defer part (b) of question No. 33 for one week.

Part (b) of Question No. 33, by leave, deferred.

Sen. Alfred: Mr. Vice-President, could the hon. Minister state where the land would be acquired for the Under-17 tournament?

1.40 p.m.

Dr. The Hon. Morgan Job: I am not in a position to state that I know where the lands will be at this time. There are alternative sites being considered, and when that information is available, I will be glad to give it to the Senator.

Mr. Vice-President: That, in fact, Sen. Alfred, is part of the response to section (b) as opposed to section (a), so it may very well be that on the next occasion you will get an answer.

Sen. Dr. Mc Kenzie: I would like to know from part (b) of Sen. Mahabir-Wyatt's question whether the Tobago House of Assembly (THA) has plans via the Sub-Intendant of State Lands. My question to the hon. Minister is whether he knows that the Assembly uses, enters upon, cuts, and builds roads through private lands without referring the request for acquisition to the sub-intendant?

Dr. The Hon. M. Job: Mr. Vice-President, I am not cognizant of those allegations, but I promise I can investigate it also because it seems to be a matter of public purpose. We should all be aware if the law is being broken or if private property is being trespassed upon without due process.

Mr. Vice-President: We will now resume debate on the Planning and Development of Land Bill.

PLANNING AND DEVELOPMENT OF LAND BILL

Sen. Prof. Julian Kenny: Mr. Vice-President, this is an extremely important piece of legislation and I am surprised, actually, that we had not been debating it earlier. Indeed, we spent the better part of 10 hours on a piece of legislation two or three weeks ago, and I refer back to the issue that I keep reminding the Government side about; the need for us to have some understanding of the general parliamentary agenda. What is the programme for the future?

I remind the Leader of the Government Business, again, that we spent 10 hours over a piece of legislation that many of us thought was unnecessary at this time, and now we have a piece of legislation that is of tremendous importance to the country and to the future, and that we really do require a lot of time to go into this. One of the things that strikes me about the legislation is that there is this tremendous degree of overlap between existing legislation, in particular, the Environment Management Act, and the National Trust Act. I will go into these, not in any great detail, nor will I go into any great detail on the present Bill, except to refer to a few particular clauses, in particular, clauses 37 and 60 and the two schedules.

Mr. Vice-President, I am a bit puzzled that we seem to be going in another direction regarding planning in that it is coming from the Ministry of Housing and Settlements, and not from the Ministry of Planning and Development. This, I think, needs some explanations which definitely do not come across in the existing Bill. Planning, in my view, is quite separate from the management of the development process, and I think that what has happened in this Bill is that the whole thing has been incorporated into one. There are probably very good reasons for this, but the

problem arises where one goes through the planning process, nationally and regionally, and the execution of this is left to a commission which we are told is independent, which we have to accept.

Also, I would like to remind this Senate that development is not a process in isolation and that there are some other important developments which need to be taken into account. I refer to one of the Bills which follows this on the regularization of squatting and I refer to something of which Prof. Spence has frequently reminded us and I, on occasion, have mentioned: the continued alienation of agricultural land to other developments. I am sure that a well-planned commission with a well-developed plan can put a halt to this process of alienation of agricultural land.

I am not entirely convinced that any commission is going to have a major dent on this squatting problem. Mr. Vice-President, if we read our history, if we go back and read an absolutely delightful account written by Prof. Bridget Brereton of the University of the West Indies, one will see that squatting is something which is part of our culture. It is something which, whatever the development process is, it will involve squatting and, of course, every government recognizes that it has to look after the interest of the less advantaged in society and, consequently, every government has a squatting regularization programme.

This, in fact, opposes rational development. I do not know that any government can draw the line and say there shall be no more squatting, when 36 per cent of our population, we are told, lives below the poverty line. We cannot think of development or planning for development, except we think very carefully of the part of our culture that encourages us, historically, that we are disadvantaged, therefore we take. This opposes any of this ordered development which we see. So, we really have to think of this Bill, of regularization for squatting, and think in terms of the alienation of agricultural land which will sustain us in the future.

Mr. Vice-President, I would like to refer to one of my major concerns, and this is the subject of the relationship between the planning and development process and the Environmental Management Act. We know that the authority was set up at considerable costs in terms of borrowed funds. We know that the authority has been existing for the past three years and, today, I was rather shaken by the fact in response to the question from Sen. Diana Mahabir-Wyatt that after three years—and probably \$15 million worth of expenditure of money which we have borrowed from the World Bank—the Minister responsible for the environment tells us that

no rules have actually been approved by the authority yet. This is very important when we think in terms of another authority, the planning commission. I sincerely hope it does not function like this, but here we have one authority which is set up at immense cost, and which has certain responsibilities that are quite close to those of the authority we are proposing to set up.

I think it is a sad day when we have to acknowledge that, as yet, there is no environmental policy after three years. We know that it has gone to Cabinet, but there is no policy that we, the citizens, can look at yet. Indeed, the other concern about that particular development is the environmental clearance certificate. There is an authority that is three years old that costs a fortune of borrowed funds and, yet, there is no environmental clearance certificate in operation.

I do not want to go on at length about this, but there are two things that are worrisome. Firstly, we still do not have an environmental commission, so that the Environmental Management Authority, in spite of its Act and section 70, which gives them immense powers, cannot take any action against anyone except through other legislation. I would like to just remind Senators of section 19 of the Act which requires the authority, within three years after the commencement of this Act—it has actually gone beyond three years—to undertake a comprehensive evaluation of the written laws and various programmes which address environmental issues, which clearly involve the planning and developmental process.

Secondly, develop and submit to the Minister a draft environmental code. We do not have a draft environmental code and yet, this code requires providing for the overall harmonization, rationalization and modernization of such laws and programmes. That is the EMA. Here we have a Bill which is extremely complicated. I would like to suggest, Mr. Vice-President, I am very much for a Planning Bill with teeth and with clearly defined objectives which are here, and for such a commission to be established immediately, *post haste*, to get working on regulating the disorder of the developmental process. I refer back to the EMA because I am a bit worried that when we set up these bodies, once the body starts operation, it becomes another layer of the bureaucracy and it is years before we effect any serious change.

1.55 p.m.

I refer also to the National Trust Act which has not been proclaimed and to which Sen. Nafeesa Mohammed referred. I, too, have been on the committee, and

while we are not supposed to anticipate the future, it is clear that there is overlap between the powers being granted under the present Bill and under Schedule I or II regarding the listing of properties. So here we have an established body, the Environmental Management Authority, whose record so far leaves a fair amount to be desired.

Secondly, we have another law which was passed in 1990 which awaits proclamation, in which the Trust is given explicit directions for conservation or preservation of our built heritage. There is also overlap between the National Trust Act, which refers to the natural environments, and the Environmental Management Authority (EMA). One of the big problems I have is that we seem to be creating a lot of legislation and we are not looking at assessing exactly what this legislation has done or achieved.

I refer particularly, if I may, to clause 37 of the Bill. I refer to the application process, this is permission to develop lands. Now, I am not going to go through all these things, but there is a major concern here that goes over subclauses (1), (2) and (3). It talks about how one has to supply information. Clause 37 states:

- "(2) An application shall be accompanied by—
 - (a) plans, drawings, surveys, maps, diagrams, environmental impact statements and other information...
- (3) The Commission or planning authority may require the applicant to furnish or pay for such further surveys, consultations,..."

Mr. Vice-President, I think the hon. Minister knows only too well the problems that the developer—and he, in fact, has said it quite clearly—faces when he puts forward an application. This, actually, is fairly close to what exists at present.

I am very, very much a part-time practitioner of environmental consulting. In fact, since I joined the Senate I have made it quite clear to my colleagues that I will only review work; I do not do active consultation. Prior to joining the Senate, I had represented various parties and the process is really quite torturous. One applies and they set out terms of reference for one. One goes through the terms of reference and one does everything and then resubmits it. Then they say they want more information. This goes on and on and eventually the client gives up. This process costs, because the Town and Country Planning and the authority—when it is established—will ask for this information. While I know there are the noblest of intentions and one wants to make the development process smoother, we are

dealing with a public sector. I know there are extremely able people in the public sector, but the culture is such that any one at any time can ask for more information and this Bill is written in such a way that we will require more information. Not only that, but the permission or planning authorities may require the applicant to pay for such further surveys.

So, supposing my client had a development somewhere in Trinidad. The commission says he has to do a full environmental impact assessment (EIA). The client asks how much it is going to cost. Let us see the terms of reference; it is going to cost him \$500,000. He foolishly puts in his \$500,000 and then he goes back into the commission or the planning authority and they say they need further surveys. The man is broke. This is a reality. I do not know how one modifies or arranges the procedures so that the developer is given some sort of assurance that when he spends his money, goes through his development planning—his EIA—that at the end of it there is some sort of comfort that he is actually going to receive. This I am sure is one of the very, very serious problems that people have experienced in the past.

I refer also to clause 60 and this is rather worrisome. It says:

- "(3) The Minister may by order designate an area or activity to be a special planning jurisdiction and may by order provide for the regulation of such area or activity.
- (4) Without restricting the generality of subsection (3), the Minister may by order provide for the regulation of—"

and then there is a whole string of things like the preservation of trees and woodlands which, I might point out to the hon. Minister—who already knows this—already appears in the Town and Country Planning Act, the Minister may make a tree preservation order. But I would like to point out that since 1968 no Minister has even attempted to make a tree preservation order, although it is on the books. I hope this one will be a little more productive.

But clause 60(4) also states that:

- "(a) any area designated an area of special interest;"

This is bordering on the Environmental Management Authority Act and environmentally sensitive areas, and I wonder why we do not use a common language. We have one piece of legislation managing the environment, referring to sensitive areas and the other one is special interests. What is the difference?

Because, under the Environmental Management Authority Act, an area may be designated a sensitive one for any reason; it could be a beautiful forest or it could be a contaminated site, like the Demerara Road. So, I do not see why we do not have a uniformity of language in the legislation.

Then it goes on to:

"(c) the preservation of any building of special historical or architectural merit or interest;"

This is straight national trust business. I wonder why the developmental process has to accept responsibility for a specialized piece of legislation that is designed for conservation of our built heritage?

Mr. Vice-President, again, I would go on like an old gramophone record, that the oldest standing roofed building in Trinidad and Tobago is at Nelson Island. It is abandoned, vandalized, there is immense history behind these three buildings, it is under the jurisdiction, I think, of the Ministry of National Security and my concern is that while we worry about making legislation to preserve buildings and things of special architectural or historical significance, while we are working on the legislations, we do not seem to be able to make *ad hoc* arrangements pending the passing of legislation like this. The three buildings on Nelson Island were built in 1802 and I will not repeat my little historical treatment, but I would think that this is the sort of thing that causes worry, because attitudes towards our built heritage over the years have been such that caused us great concern. So, those are the two clauses to which I wanted to refer.

Then, I would like to refer to the First and Second Schedules. This is the actual commission. To me it is worrisome, the composition of this commission, for two reasons. One is that we have already had, under the environmental Management Act, provision for the establishment of an environmental commission, which is not established three years later. I look at the Environmental Management Act and it is quite clear—I think I am supporting the point that Sen. Mc Kenzie made—that in the Act the President and the Vice-President of the commission had to be attorneys-at-law of 10 years standing. Bearing in mind the developmental process and that one has to develop fairly rigid control over the process, I would have thought that this might have been an assistant commission to the environmental commission. In other words, I might reasonably have expected an attorney-at-law, perhaps two attorneys-at-law, of 10 years standing, being very important members of the commission, in fact, presiding over the commission.

I turn to the Second Schedule and this one is extremely worrisome for a number of reasons. If we turn to page 152, this covers the environmental impact assessment. As I mentioned, I used to be a practitioner of this art—it is now a science—its judgment and there are certain problems that arise with environmental impact assessment. They are part of the planning process, but they are not the determining factor in the planning process and the development process for a number of reasons. It is fairly easy, when one has a specific development, to do an environmental impact assessment, where one takes a certain area of land and says that one proposes to do this. It is comparatively easy to look at the actual development. Regarding the impact of that development on the broader environment, I am afraid that we are in a very sticky wicket, because it suggests that we can predict impact outside on the environment when we do not know what the outside environment is. Our knowledge of the environment, at least the natural environment, of this country is limited to certain particular areas of interest to people.

For example, Buccoo Reef is an area and one can examine the impact of, say, developing a hotel at Buccoo Reef and one of the impacts might be sewerage. So if the developer has a plan for managing the sewerage, then one can predict what might be done. I might point out that while there are certain objections to any development in that part of Tobago, the authorities responsible for managing the sewerage treatment plants at Buccoo and at Bon Accord, in fact, have not been doing their jobs and raw sewerage has been going into Bon Accord for many, many years. Now, my point here is that when one does an environmental impact assessment of a particular development, one has to have a knowledge of the adjacent environment and this is where we have a weakness. We know a lot about the marine areas around South West Tobago, we may know a bit about Aripo savannahs, we know a fair amount about the Nariva Swamp.

2.10 p.m.

Suppose there is another development in an area adjacent to the natural environment where there has been no previous study done. How can one reasonably expect a critical environmental impact assessment? I am just warning of the pitfalls.

Secondly, if we look at the Environmental Management Act there are a certain number of developments that require an environmental clearance certificate. There is a conflict between these issues, in that, to the practitioner—under our circumstances—there is not much difference between a clearance certificate and an

environmental impact assessment. I reemphasize the point I made, that the way in which the Town and Country Planning Division worked in the past with the environmental impact assessment, was open ended. You got outline approval on the basis of this and they kept calling applicants back because they wanted more information. Sometimes the information they required suggested to me, as a scientist, that the people who were asking for it had very little knowledge of science.

There is yet another complication with the environmental impact assessment. I mentioned that the EMA calls for an environmental clearance certificate which gives approval and there is a certain list of things which they require. One of the problems that arises when doing any environmental impact work in this country is that clients normally advertise or go to three selected persons or groups and ask, "Give us a price on this." What has emerged is that one Government agency, the Institute of Marine Affairs, is invited to compete with the private sector in providing services. This institute has been told by the Government to raise more revenue. In fact, the only body that could do this within its Act, is Cariri which is set up specifically for this sort of thing.

Thus, you find that firm 'A' paying corporation tax, business levy and duty on computers and so forth, is competing with the Institute of Marine Affairs, and the IMA does not pay VAT and corporation tax, since much of its equipment is donated by international agencies. So we have a problem where the IMA is now competing with the private sector, unfairly, on doing EIA work. If you happen foolishly to underbid them, for example, if company 'A' underbids the IMA, then who is on the review team at Town and Country Planning to review your work? Having lost the bid to get work, the IMA just moves into the Town and Country Planning Division as their assessor. A problem is created for those professionals working in the private sector.

I would point out that, in the case of the Nariva Swamp, this was open to public bidding and the Institute of Marine Affairs won the bid on the highest tender. It went to several hundred thousand dollars above the other tenderers coming from the private sector.

Sen. Mohammed and the farmers are very concerned. They were doing an environmental impact assessment on Nariva Swamp which cost far more than any other private sector company had offered to do it for, and they have not done it yet. Furthermore, there is an ambiguity in the invitation for doing an environmental impact assessment on the Nariva Swamp.

An environmental impact assessment simply is an evaluation of a specific proposal. It mystifies me that somebody is actually doing an environmental impact assessment on Nariva Swamp but there is no proposal to grow rice there on 'X' acres. An assessment cannot be done on something which is not a proposal. Indeed, Mr. Vice-President, Nariva Swamp, like many other places, has been the subject of on-going studies.

This is one of the concerns in the Schedule as to the environmental impact assessment, rules and procedures and how these things would get through the process. In all fairness to people who earn their living in the private sector doing consultation work at this time, they ought not to be competing with Government agencies to do the same thing. It is just simply unfair. It may be in breach of some part of the law.

The other point I would raise on the Schedule refers to listed buildings. Here we have a prescription for more confusion, in that, notwithstanding the National Trust Act this Bill seeks to give to a body authority over exactly the same thing. I cannot see how this can be supported. It is either we repeal the National Trust Act and get on with the Government listing properties and looking after the built heritage; or we remove this responsibility from the Planning and Development Bill and give it to the authority where it properly belongs, the National Trust.

I am very much for this idea of straightening out, once and for all, the planning process. I am a little worried about the relationship between the different players. I appreciate that one can set up an independent commission, giving them great authority and so forth, but what concerns me most is how do you relate with the regional authorities bearing in mind the warfare going on in Arima now over an issue. A beautiful planning commission may be set up and party warfare develops in a particular authority; half the life of the commission would be spent trying to resolve this warfare. I would be very concerned about the relationship between the commission, the local authority, the regional authorities and of course, the Planning and Development Appeals Board. It does not come across to me clearly how this will work.

I suggest to the Government a way forward—because I support the need for this type of legislation. I am sure a lot of it would remain unchanged. The only way forward is for a committee of the Senate to sit with the technical people as we did with the Occupational Health and Safety Bill, and go through it clause by clause. We get the explanations of the rationale for the particular thing and from that we come back to the Senate with something with which we can all be comfortable.

In closing, I am told that we on the Independent Bench are under a microscope. Sometimes it seems to people outside that we are supporting the Opposition or we are part of them; and sometimes we appear to be on the Government's side. I think that something as important as planning future development should have a more rational, ordered approach to it. To give us planned development really requires that we forget the partisan line and get together—those in this Senate who have some experience, and the technical people who are responsible for the Bill—to look at it in detail and come back to the Senate. If necessary, I will remain until 10 o'clock at night, but my suggestion is in support of Sen. Mohammed that we might consider a select committee of the Senate to look at this Bill in detail and come back to the Senate as early as possible.

Thank you.

Sen. Prof. John Spence: Mr. Vice-President, like my colleague Sen. Prof. Kenny, I would say how important I consider the Bill to be. I think the Government should be congratulated for the work that has gone into it with the support of the committee which has been looking at it. It is extremely important that we get it right because of the nature of the Bill.

My concern is somewhat more with the policy behind the Bill, in the sense that, it seems they are locating the commission in the purview of the Minister, who I gather is now responsible for physical planning and not, as previously had been the case with the Town and Country Planning Division, in the Ministry of Planning and Development.

I am concerned, particularly, with the effect that this may have on the agricultural sector. That sector seems to be getting less and less importance almost daily in Trinidad and Tobago and I see its demise taking place in spite of innumerable statements to the contrary. I have seen no evidence that this Government, which I had great hopes for with respect to the agricultural sector, is doing anything to enhance it as of yet. There are certain aspects of this Bill which seem to increase the danger of the demise of the agricultural sector.

The Town and Country Planning Division should not be separated from socio-economic planning. I cannot see how there could be a concept for socio-economic planning which does not encompass physical planning as well or vice versa. I am concerned that physical planning should be in any line ministry that would have other deep interests which might therefore influence its approach to that planning process.

The fact that I promote the agricultural sector, I still would not have supported moving of this process to that sector, because clearly the agricultural sector has certain vested interests. Similarly, I find it difficult to support its removal and transference to the Ministry of Housing and Settlements because I believe that Ministry has certain vested interests which quite legitimately it should promote.

Of these various ministries, it seems to me that the Ministry of Planning and Development would be the more neutral and therefore, would link socio-economic planning with physical planning and be able to balance the interests of the various ministries and sectors in that way.

I would give a couple of quick examples of events that I have seen taking place within recent years which seem to me to be at the disadvantage of the agricultural sector. The first of these was what was an admirable concept, and that was Sou Sou Land with which the hon. Minister was very much involved. I myself went to some of the early meetings and was very impressed with the thrust, process and philosophy behind the whole concept.

2.25 p.m.

But then, because the Government at the time was not in support of the process, I assume, the approach to implementing the Sou Sou Land concept was to purchase a number of agricultural estates, the consequence of which is that those estates have gone out of agricultural production. I happen to have to pass one at Las Lomas on my way to my own farm, that is, when the road from one side was impassable, but my belief is that similar occurrences have taken place on other Sou Sou Land projects, that is, housing was provided for at the expense of agricultural development.

Another development of which I have heard recently is a plan to move a village because of the expansion of the airport and to place it in Orange Grove on the last bit of remaining class 1 agricultural soil in that area. The whole of the foothills of the Northern Range has gone into housing. Along the East/West Corridor, I have invited two or three housing Ministers since I have been in this Senate and I invite the hon. Minister again, to drive with me along the Priority Bus Route to look at what is happening between Tacarigua and Arima, all of which had been agricultural land and which provides the last remaining bits of class 1 land in Trinidad and Tobago. Now, we intend to encroach on Orange Grove.

The only new development in agriculture of which I am aware in Trinidad and Tobago, has been the advent of Pernod Ricard, to introduce a new crop to Trinidad and Tobago with export potentials after processing, yet we are suggesting that we should use this area for housing rather than for agriculture.

The evidence before me would suggest that a Ministry that has certain sectoral interests would influence the developmental process to satisfy those interests rather than necessarily taking account of all the sectors that need to be considered when one is doing planning. I am concerned about that possible development and the responsibility of physical planning having been moved from the Ministry of Planning and Development to the Ministry of Housing and Settlements.

With respect to some of the points made by Sen. Prof. Kenny, I am entirely in agreement with the difficulties in overlap between some of the activities of this Bill and other Acts that have been passed. With respect to listing of buildings, for example, I myself have a particular difficulty—and I have expressed it in the past—even on the National Trust Bill, because I do not believe that a procedure such as the listing of buildings should be done by an agency outside of the control of government. In the National Trust Act, my difficulty was that the Ministry of Culture and Gender Affairs, to which Minister the Trust would be responsible, would have the in-house capability for listing buildings.

It is somewhat different in this case and, in that sense, I might be inclined to support the transference of that responsibility to this commission which, I presume, would have the in-house capability to carry out those functions. Now it is not clear to me—and I do not think the Minister actually said this in his presentation, so I am going to presume and ask him to confirm in his winding up—that the present staff and establishment of the Town and Country Planning Division will, in fact, move to the commission.

The legislation provides for employment of staff by the commission, but it has not spelt out what staff this will be in this new body, so I have to presume that those functions and those persons, the expertise that now resides within the Town and Country Planning Division, will be transferred to the commission and, therefore, it will have the establishment that is equivalent to the present Town and Country Planning Division. If this is the case, then for something like listing of buildings, I will be more comfortable with that organization doing it, than an organization which is responsible to the Ministry of Culture and Gender Affairs say, without the in-house capability, if you then have to depend on another Ministry for that input.

However, I would warn from past experience of two such developments, that it is not as easy a transfer as the Bill would seem to suggest. If one looks at the regional health authorities which involve transferring of staff from the public service to work for a regional authority, it seems to me that a similar process is planned here, that is, the transference of staff from the public service to the commission.

Now, I am not suggesting that because it is difficult to do, one should not do it, but at least one must express the hope that the process would not be as difficult as has been the case with the regional health authorities, and one would hope that there is some mechanism derived whereby individuals cannot opt to stay with one and not be transferred to the other, because one may then have a hiatus in which one has a mixed body of staff—some being public servants, some working for the commission—trying to develop this new agency. So, it seems to me that we have to operate differently to the way we did in the case of the regional health authorities if we are going to be successful in pushing the concept forward quickly.

With respect to the regionalization process which the Minister has outlined and which I think is very admirable, I would perhaps agree with some of my colleagues that—and it is not just a recent development—throughout the years from the time we became independent, it is perfectly clear that central governments do not like giving up their authority. In the past there were town councils and county councils, now there are regional corporations. It is perfectly clear that governments do not like to do that.

While we may say that what we plan to do is to regionalize the planning concept and give more authority to regional corporations in this regard, the fact is that the first time they do something which the Central Government did not do, the Central Government steps in. But, you cannot have it both ways. Either you have decided to give it to regional authorities and you are making sure that people in individual communities are willing to participate, or you are centralizing. There may be arguments in a small country for both. Maybe in a small country we do not need to have these regional authorities, but if we decided to have them, at least let us be consistent and not rush to take back the authority at the drop of a hat.

Here again, a lot centres around who employs the staff, so that if the Permanent Secretary in the Ministry of Local Government can decide who is to be a City Clerk in San Fernando, how can the San Fernando City Corporation have any jurisdiction over that City Clerk? Similarly here, when this body is set up, if the

staff still works for the public service and is subject to the promotion, discipline and so forth of the Public Service Commission, how can the National Planning Commission have any jurisdiction over such staff?

Mr. Vice-President, I am concerned about the process whereby we transfer from what we have at the moment to what we plan to have. I am concerned with the conceptualization of the physical planning process being in a Ministry other than a neutral Ministry such as the Ministry of Planning and Development. The only other area I see in our establishment where that could be located is under the Prime Minister's portfolio but, for it to be in a line Ministry, I think is a mistake.

I agree with Sen. Prof. Kenny and Sen. Nafeesa Mohammed that it would be extremely useful if we could look at this Bill in some more detail. The hon. Minister has offered that the committee which sat and deliberated for a considerable period of time could be available to have discussions with us and I certainly would support that we should have a Senate Select Committee and, on behalf of my Independent colleagues, I would undertake that those of us who would sit on such a committee would devote whatever time necessary to expedite a detailed look at the Bill because, certainly a number of things would arise which I feel, on reflection, and with the discussions that could take place, we might modify, confirm or at least allay the fears of some of us who might be concerned with the way the Bill is presently shaped.

Thank you, Mr. Vice-President.

Sen. Martin Daly: Mr. Vice-President, I have two basic difficulties with this very complex piece of legislation. First of all—and I can be quite brief on this because it has been raised by several contributors before me—this Bill really deals with three things in essence. The development and use of land is one subject matter of the Bill, the protection of the environment is another subject matter of the Bill and the protection of heritage is the third subject matter of the Bill.

Now, it might be possible to combine in one piece of legislation these three subjects, but that is not possible in the present context because we already have a mammoth, expensive and pretty much failed agency looking after the environment, and when you look at the long title—and it is very rare that we look at the long title—it makes the point that one of the purposes of the Bill is:

“...to confer additional powers for the protection of the environment...”

Conceptually, I do not understand why these additional powers are being put in a different agency from the expensive agency that already exists, so I think that the way is already blocked in attempting to provide for additional powers for the protection of the environment in this Bill. I would have thought that one of the first tasks of the select committee, which I would support, would be to go through this Bill and remove from it those parts that do not properly belong to the agency that is being set up here.

Likewise, we already have legislation concerned with the protection of the heritage and, therefore, I do not see how we could legislate in this Bill to put powers, whether they are additional or not, for the protection of the heritage in this agency.

So, the first thing that has to happen is this entire Bill has to be reviewed and a sensible decision has to be made about whether the environment is going to be protected by this agency, or by the one that already exists; whether the heritage is going to be protected by this agency or the one that already exists; but it simply is not possible to try to work these three separate pieces of legislation in tandem. That should be the first urgent task that the select committee should review.

No one has any preconceived ideas. I think Sen. Prof. Kenny and I would be the first to be happy to see the backs of the Environmental Management Authority, largely because that was foisted on the country by the insistence of the multilateral lending agencies and we really had no choice about setting it up, but we never really meant to have it. It is just something we were told to have. The problem about operating in the global environment now is that in every aspect of life, there are people outside the country saying, "You have to have one of these", and one of the "have to have one of these" for borrower countries, is an Environmental Management Authority whether it is needed or not, whether it should be structured in a way that is appropriate for the country or not. That is my first difficulty with this and I think we really have to step back.

Mr. Vice-President, you know people get very attached to their political party, their race horses, their dogs, their bills and think that they cannot be improved on, and one of the purposes of the Parliament—there seems to be confusion in the minds of a small somewhat dishonest set of commentators that the Parliament has only one function—is to encourage the persons who are responsible for making the laws to step back and look at the other things because a fresh mind is being brought to bear on it. Therefore, I think we need to bring a fresh mind on this jumbling up of all these subject matters in this one Bill.

2.40 p.m.

I do not think it is just a question of whether we are for it or against it, whether we like the Government or not. In the Senate in the United States, I believe their role is described as “advise and consent”. Long before we get to consent we have to try as best as possible to give sensible advice. I think it is a good time to remind dishonest sectorial commentators that the role of Senators is multilateral, and one of them is to try to give the Government good advice. If the Government thinks that this Bill is carrying out its manifesto despite its advice, well they have been elected and it is not our place to obstruct the Government in carrying out its manifesto; we can try to advise them how best to do it. So I think it is important when we take part in a debate in the Senate, to remind people what we do.

I have a much bigger problem with the interaction of this commission with the Minister. My problem with this Bill can be stated simply this way: I think the Bill perpetuates the considerable confusion that now exists between the various organs of the Executive and the other bodies that the Executive may employ to do some of its work. Before we get to this Bill, that is the heart of the difficulty that we have with a number of existing agencies, including state enterprises. Who buys the rice? That is the question. Does the chairman buy the rice; does the chief executive officer buy the rice; does the marketing manager buy the rice, or does the Minister really buy the rice by telling any of the above from whom to buy the rice? This is how we get into these difficulties.

The Government of the country—at the risk of stating the obvious—is the executive of the country, and we have to be very careful that it does not unwittingly or inappropriately transfer or have removed from it any of its executive powers by non-executive, non-elected and non-accountable persons. That is at the heart of all the scandals and dilemmas that arise in the state sector. There are persons who clearly have non-executive responsibility, frequently at the behest of the politicians, taking upon themselves executive authority.

Many of us have forgotten that this problem became so serious in the aftermath of the rice and other things, that the Government under the blessing and participation of the Prime Minister, held—I do not remember what it is called, but anyway—a seminar at the Valley Vue Hotel, to which it commanded all the various state enterprise chairmen and executives to attend. I certainly hope that it would not be regarded as a mark of a political strike that I was one of three guest contributors, the others being the head of a large private conglomerate and some other oil person I have forgotten. We were asked to bring the benefit of our

business experience to bear in this seminar. It emerged very clearly, and the papers are documented, that there is a great problem between trying to define the responsibility of the Government and the other persons it employs to do its work. I am spending a lot of time on the general problem because of how clearly the dilemma or the difficulty is continued in this piece of legislation.

Keep thinking about it: who buys the rice? It is a very practical example, when we look at the function of this commission which is first and foremost, to advise the Government on policy. I fully accept what the Minister has said about the need to be pro-active and the need to expand the planning vision beyond development control—and control is a very interesting word and I would come back to that. So it is a very good idea to have some kind of high-powered specialist body advising the Government on policy, but ultimately as the Bill recognizes, the policy must be that of the Government. So far so good. There is this commission which would advise the Government on policy; the Government will take its view into account; it will arrive at a policy framework and would get the policy ratified by the Parliament. So far so good.

The difficulty I have with this Bill is that the commission is given certain functions which are clearly executive and which clearly, hitherto, have been carried out by various official agencies of the Government, namely the public service. That is where we run into difficulty. First of all, I do not see how this commission, comprised as it does, will simply have the time to perform all these executive responsibilities. It is quite clear that this is a commission like the Senate—the independent Members—who are part-time. They are successful people, so by definition they have very little time—they are busy people and are involved in many other things—which further cuts down their time. So a commission of that sort, in my opinion, simply will not have the time to carry out the executive responsibilities that are placed on it by this piece of legislation.

Therefore, the next task of the select committee is to sit and place into two stacks, the executive and non-executive functions of this commission and to see whether, in fact, this commission is capable of carrying out the extremely onerous and voluminous executive responsibilities that are placed on it. Why I say it perpetuates the dilemma is, if you have what are truly executive responsibilities of the Government being carried out by a commission of this kind, we are going to end up with more of the inevitable struggles where they would come to a parting of ways between the Minister and, possibly, some of only his public servants on the

one hand, and this commission which—to use the words of the Prime Minister—in the eyes of the Government may be acting like a runaway horse.

There are these inevitable clashes all the time. People are taken who are not elected, who have no formal place in the constitutional framework and are given huge or important agencies to run. The Minister can be frequently heard saying, “But I put in a new board to run the place.” When Sen. Prof. Kenny asked the Minister of Agriculture, Land and Marine Resources about Tanteak and its bad deals that were made for the teak, the Minister said, “But I put in a new board to run the place.” That, of course, is an invitation to buy the rice or to put it another way, to buy the teak. The very person who is responsible for the agency is, in fact, quite wrongly inviting the appointee—the non-elected, the non-accountable appointee—to assume executive responsibility. That is why there are these clashes all the time between governments of the day and persons they appoint, believing those persons are fully in tune with the Government's objectives.

I guarantee you, if you appoint a commission as structured here, with the responsibilities that it has there, it is going to make who buys the rice pale in significance because you are going to have huge quarrels between the government of the day that would have one objective for Chaguaramas—and I pick the example very knowingly. There are Ministers sitting here who know of the pulling and tugging that is going on with respect to the development of Chaguaramas. Things are happening that are being inconsistent with the Government's concept of a master plan, and you are going to have the same pulling and tugging here. So on purely political grounds, on purely historical and track record grounds, I am not supportive—I have to be careful; if I am against something I would mash it up—of dividing up executive responsibility between the state and its official organs on the one hand and appointees on the other. The fact that they are part-time makes it even more difficult for them to carry out the duties if they are onerous.

May I give a few examples. If one looks at page 12, section 6, “The principal functions of the Commission”, I will just read the opening words which say:

“(a) to advise the Minister with respect to the framing of development policies...”

Fine, that is advisory.

“(b) to prepare a comprehensive physical development plan...”

That is possible, but bear in mind that the people are part-time.

“(c) to develop codes of appropriate building construction...”

That is fine. That is an advisory kind of one-off job. But then we get to deal with (d) and (e). Bear in mind that the persons who are going to have to do (d) and (e), when you look at Schedule 1, are—I am just picking persons at random—nominated by the society of planners who presumably have their own full-time career; persons representing NGOs and non-profit organizations; and then persons from that very interesting group that the Minister so charmingly described as federal—the Joint Consultative Council—who certainly had some very heated elections that one might say are airport based. So those are the people who are going to be charged with carrying out these functions. They are busy, they are part-time and in some cases they are politically flawed.

With regard to section 6 of page 25, it says:

“(d) to ensure that all persons and agencies concerned comply with the requirements of the National Physical Development Plan, the codes, and the standards...”

A lot of work is involved in there, but broadly speaking an inspectorate and an enforcement agency are being described. I do not see how Mr. Smith of the Joint Consultative Council is going to have time to see that people comply with the building codes. I take it building codes would be as detailed as how high the rises in a step should be and how much parking there should be in relation to square feet of land, a target that the Town and Country Planning has applied so inconsistently. There are eight-storeyed buildings with no parking and two-storeyed with more parking than the eight-storeyed building, but that is another story. [*Interruption*] Towers without elevators.

Then you have (e):

“to coordinate the land development approval process and grant all approvals required for commencement of construction...”

If someone wants to build a tower, let us say in East Port of Spain—the West is rather full of towers—you have to go to this commission comprised of Mr. Smith from the JCC, the Society of Planners person, and so forth. This part-time body is going to be sitting there and if I want to build a little calaboose somewhere, I have to wait on these persons to approve my application. It is bad enough now so it simply would not work. I am reminded of section 12 where they appoint the Director of Planning, the Chief Building Inspector and all the procedures which have to be looked after. It simply cannot work.

Mr. Vice-President, those are some examples which show that the second task of the Senate Select Committee which I support, is to review again the allocation of executive or non-executive responsibility. So the Planning Commission can play a full but restrained, non-executive role in connection with the development and use of land. The sorting out of that is essential to us. It is a very good idea to have a planning commission so that we can get away from this very negative concept of the development control; a planning commission that can bring some vision, that can stimulate the planners into understanding that their job is not to give you grief; it is to make things happen. I am convinced that over the years the job of many planners is just to give one grief and to call for plans that bear no relationship to the work trying to be done; it is not to get something going.

I think it is a very good thing indeed, that the Government wants to introduce some pro-active thinking into the planning process and to do it by this commission. They must be freed of day-to-day executive responsibility so that they could stand back and look at the country and areas of the country as a whole, and see whether they can improve on the planning process and—I go so far as to say—the physical appearance of the area. They must stand back from the day-to-day approvals and deal with those things and not have to be involved in approving people's housing plans.

I, like everyone who has ever tried to get an approval, cannot think of anything worse—with the possible exception of begging the Central Bank for money for medical attention or education abroad when we had exchange control—than begging for permission to put up a three-bedroom house in a recognized residential area and having to wait months and months and months and having to pay the bank interest while awaiting approval. It is, in fact, impossible to identify a site to build an ordinary home in a recognized residential area in Trinidad, and tell the bank from whom you are borrowing the money to build, with any degree of certainty, when you would have an answer about your plans. Am I right? So ordinary people cannot plan their ordinary lives.

I am very much in support of Sen. Kenny's criticisms of section 37. Far from having to ask for more information, the Act should be very specific about what should be provided. If you are building a house you give them A, B and C; if you are building a ranch, you give them X, Y and Z; if you are building a tower you give them I, J or K. Having been given those things, they either approve it or not and only in exceptional circumstances should they be able to ask you for anything else and there should be a specific time limit within which to receive an answer from the agency.

Let me come to this environmental impact assessment. This is another fad; it is nothing but a fad. Let me tell you why it is not working in Trinidad and Tobago. Where is Sen. Baksh? He always leaves when I am going to discuss things that I have discussed with him already. Do you know why it is a fad? Because you will get a document that will say the effect of what you are going to do is A, B and C—it is going to affect the river this way, the tides this way and so forth. But this is Trinidad and Tobago and nowhere does anybody conduct—and the Minister of Housing and Settlements will know this very well—building operations with any semblance of discipline.

So you get an impact assessment study which will say, “When we are building this bridge”—and I am going to give a practical example—“in this area of the river, there are 36 mangrove plants and only four will be cut down just to squeeze in the bridge.” When the “tess” comes with the bulldozer and makes his swing he takes down eight. Then when he needs somewhere to park the bulldozer after work, he is going to “lick down” another four to park the bulldozer and put up a canopy to take a sleep. You know where I am going, Sen. Mohammed.

Week after week I drive through Manzanilla, and week after week I am seeing a complete destruction, tree by tree by tree of those valuable mangrove swamps along the Manzanilla road.

3.00 p.m.

So, I asked my good friend, the airport man, about it and he said, “But we have environmental impact assessment studies, doh worry”, and every week I pass, more mangrove is gone. I see the fellow with the bulldozer and the little family selling cascadura by a bridge in a nice shaded area in a lovely little part of Trinidad. One day the fellow wanted somewhere to park the bulldozer so he drove it straight into the yard and “lick up” the little flower pots, nearly killing the boy who was selling the cascadura at the time, *[Laughter]* but there is environmental impact assessment and nothing would happen. *[Laughter]* By the time those people finish building that Manzanilla road the whole area of mangrove would be dead, dead, dead and there are people sitting in the Parliament today who I am sure would tell me I am right. I am not a specialist, but I can see. Every single week I drive past there, but we have environmental impact assessment.

Mr. Vice-President, what happened is that we have first-world ambition and structures with—I would not categorize our attitudes, because I throw things out the window too—attitudes that do not match those things. So you are putting in all those structures and we do not take care of the little operational things.

So, we need to be careful to be asking everybody who wants to put up a little calaboose to apply for environmental impact assessment and when the person comes to build they throw all the gravel in the road, bring the big trucks that “lick up” the road and nothing is happening to the environment because there is an assessment. So, I think we need to look at that very carefully. I am hammering home these examples because I do not believe that this commission with the man from the Society of Planners and the NGOs who might be sitting on this commission, really may have the expertise to see about all this flying gravel and all this indiscipline that go on in construction works in Trinidad and Tobago.

Mr. Vice-President, it is not going to be possible for us to deal with this Bill by a vote. It is not even going to be possible, in this case, for us to deal with this Bill by amendments. May I just say that in my six years in the Senate now, I know I have participated in amending at least 30 bills—my secretary is doing a count, but unfortunately I had to give her vacation and she was not completed—that have come before this Senate before I vote for them. Usually, when we make a fuss about it the Government sees the point and the finished product, which we approve, is quite different from the one that was presented originally.

Now, when one comes to a Bill like this it is not possible for us to deal with it by voting for or against it. It is not even possible in this case to amend it, because to sit down as part-time parliamentarians, without staff, to amend a piece of legislation like this would require that one not only make what I would call internal amendments—that is to say I am not a parliamentary draftsman—to amend the language in the Bill or rearrange things or take things out, but also to cross-reference the amendments to the other two pieces of legislation involved. It is not possible to do that in a gathering like this and that is why we need to have a select committee. That is why even with the input of the Senators, at the end of the day, it is up to the Government. The Government can say it is going through with this hard like the man with the bulldozer in the mangrove and leave it as it is because there was a very important committee, which got advice from abroad and everybody is all gung-ho about this and it is too late to change.

I am suggesting that this piece of legislation, like the Companies Bill, the Occupational Health and Safety Bill and one or two others on which Senators gave up much of their private time to serve on committees in order to get a finished product, could then be approved by the whole of the Parliament. I am spending some time on this because every so often we seem to forget what it is we do in the Parliament and that this is some sort of gayelle where we come, fight, knock each

other over the heads and go our way. That is not the role of the Senate at any rate and I have no experience anywhere else. This is a perfect example of where Senators of all persuasions—there are nine of us with nine different persuasions—will weigh in and say their bit and give well-intentioned advice which then has to be taken and refashioned in committee so that we get a different and better product at the end of the legislative process.

So, I hope that the Minister will receive our criticisms in the best sense—perhaps I should say critiques. I hope that the Minister would receive our critiques and suggestions a little more favourably than he receives the critiques of our journalistic colleagues. I hope he will be a little kinder towards us even though we are in a critical mode—but I hope it is constructively critical—and he will not liken us to any of the dark forces in society because we are simply doing our jobs and advising, and ultimately seeking to get everybody's consent. I know that this is a more friendly atmosphere and when the hon. Minister comes in this place he feels more relaxed with us around him and no doubt, in due course, and hopefully not too late tonight—although I think we have all made the appropriate arrangements and although there may have to be some physical renovations down there [*Pointing towards washrooms*]*—*we can continue to have a constructive debate and the wisdom of sending this Bill to a select committee would be seen.

Thank you very much, Mr. Vice-President.

Sen. Joan Yuille-Williams: Mr. Vice-President, I feel very comfortable this afternoon to make my brief comments on this Bill. The reason being because when I first looked at the Bill and tried to read it through I agonized for some time and I wondered if I was the only person enjoying such suffering. I was trying to go through it so I could make a worthwhile contribution. I did all I could possibly do—that is to talk to people and so forth—but when I came here today and listened to other Senators—I thought I heard some excellent words of wisdom—I now rise really therefore to support the concerns which I have heard which are real concerns.

Mr. Vice-President, when I was going through this document I started to write that this proposed legislation strikes at the root of the constitutional rights of the people of Trinidad and Tobago with respect to the enjoyment of property. Also, it was inconceivable that any citizen could continue to enjoy these rights based on the lack of knowledge and information brought about by the manner in which this Government of transparency and disclosure has chosen to deal with this Bill.

As with the other Senators, I consider this to be a most important piece of legislation. Therefore, I felt that if this Bill was passed in its present state it would affect so many people. The public's right to information, therefore, and the Government's failure or refusal to give the opportunity to review and comment on the proposal in this Bill is something that none of us would understand and we would strongly condemn. That is why at this time I too would like to support my colleague and other Senators and ask that this Bill be sent to a select committee of the Senate.

I say so, too, because while I was trying to consult on this Bill I went to two or three members of different corporations and was most surprised when one person, a senior officer, told me that he had not seen the document at all. The other two were not even well aware of what was implied in this document. I also went to an architect whom I thought could help me. He looked at it once and returned it to me just as I sent it to him saying that he did not have time to do it, but also that it was not real that this was going to go through this afternoon. He did not believe that it would go through.

When I came here this afternoon I found that there are others who are as concerned as I am about some of the stakeholders with respect to this Bill. One of the things that really surprised me in this Bill—and I noted that when Sen. N. Mohammed asked me to speak on it I saw a little reaction from the hon. Minister—was the enormous amount of power that was given to the Minister. I want us to recognize that we are making legislation not only for ourselves.

3.10 p.m.

I want to tell the Minister that legislation is made for all times, and that in this case as a Minister, some of my fears, if he has to take this through might not be realized. I do not know who will follow him as Minister, and I think one needs to look at those areas and I will look at a few of them very quickly.

I noticed that if an aggrieved party had no recourse to an appeal for any decision from the Minister—I can be corrected if I am wrong—if this Bill is passed, it will make it extremely easy for some persons to approach some ministers whoever they may be, as dishonest as some people can be, for some types of approval. I will go through that very closely. This Bill states:

“The main objective of the Bill is to provide a legislative framework for reforming the administration of what, in Trinidad and Tobago is traditionally referred to as ‘town and country planning.’

Planning and Development of Land Bill
[SEN.YUILLE-WILLIAMS]

Tuesday, August 18, 1998

The Bill seeks to make physical planning more accessible to local communities...”

I am wondering whether town and country planning and any other policy body, whatever it is called, should not stick to policy issues?

I am seeing that the Bill is not only seeking to repeal the Town and Country Planning Act, but also the Municipal Corporations Act, Chap. 21:90. It is taking away the functions of local government authorities that deal with the everyday issues such as approvals, construction, public health issues, and that is why this struck me so much. If these corporations and bodies are going to be affected, how come I got the impression that they were not consulted about the entire Bill? I am wondering—when I look at Minister Mark who is in charge of public administration and public sector reform—I know that when significant changes like these are being taken through, that those involved and the stakeholders will be brought aboard in some consultative process because they are going to be affected.

All before, the municipal corporations were doing what part of this commission is going to do. One person in the municipal corporation told me that they had also set up regional committees and they had brought on board WASA, T&TEC, Public Health and so forth, similar to what is called a one-stop shop. They thought that was working successfully. Whether we think it was working successfully or not they are going to have to change their whole method of operation and they are going to lose certain functions, and that is why I feel it is really important that we liaise with these people, and bring them on board with something like this because one just could not move from one extreme to the next.

The hon. Minister was part of a government which went for decentralization and now we have reversed that process, it is centralization and giving some functions to the local government authorities as I heard before—it is a two-way process and I am not sure which way it will go and the legislation did not even tell us exactly what we are in for, and what is going to happen. We saw where some functions would be devolved to the local government authorities, but it was not quite clear. That is why I am saying there is need for much more consultation with the stakeholders in this particular case. What is even more perplexing is seeking to merge the policy as it relates to developmental planning with local government functions relating to building construction and to put all this under a centralized authority. In this legislation it seems that the local government bodies would have been invited to some of the meetings.

Mr. Vice-President, we are seeing a centralized authority taking over the responsibility of town and country planning and 14 municipal corporations. The whole process seems to me, and as it stands here, and as we try to implement it to cause some kind of confusion and frustration. And as someone quite rightly said, we asked ourselves what about the ordinary man? How does he fit into this? He took his time to acquire and own a small plot of land, and he is now going to try to do some kind of development. We have to look at that because we need to understand that this is not only for the large developers.

Also, when I spoke to a contractor on it, he said to me—and you cannot blame him—it reminded him of those days when we all used to go to the Red House to collect a birth certificate, from whatever part of the country we came, and it was decentralized and one can now go to the San Fernando offices and other places to collect the same. We are seeing whether or not one is now going to be put into a position which makes it much more difficult for one to function. The legislation does not clearly tell us how this will operate and we need to look at all of that as we go through.

I would just like to look at some of the areas which affected me and I am saying affected in the sense that I looked at certain things and I did not understand them. I am raising these points simply because I feel there are several points that need to be clarified and, therefore, if it goes to the select committee a lot more will be done to them. We are interested in the legislation, we would like to contribute to it and that is why we are asking that it be sent to the select committee. Sen. Daly looked at the functions of the commission—he stopped short of clause 6(1)(g). I would just look at 6(1)(f). I am only looking at these to show the kind of things that crossed my mind. I am not going to try to explain them at all. I cannot in most cases, but I am trying to show the kinds of difficulties. The principal functions of the commission are:

“6(1)(f)

To ensure that, wherever it is expedient...”

When I see a clause like that, it suggests that the Government is intent—are they going to select a particular local government authority to which the function will be devolved? Where would it be expedient?

“...all functions relating to the development control, issuance of building permits, and or construction and occupancy approvals that can be discharged at local levels are devolved to local authorities as quickly and as transparently as possible;”

What exactly does “that can be discharged at local level mean?” To me the functions that can be devolved according to this Bill are in the main already performed or discharged by the local authorities. What therefore is the intent of that section? And, that is only one section in that area. If I go to clause 40, “Consideration of application and grant for permission to develop land.”

I am just taking some examples. The considerations that might be regarded as material are:

“(d) the availability of alternative sites for the proposed development;”

What does this mean? Does it mean if I am a developer and I came to put up a development here and, therefore, the commission feels that there is another site somewhere else which is a better site, then can I go across there and develop the site? I am not sure what the “availability of alternative sites for the proposed development” means. I am the developer, this is my land, I have applied for permission to develop my land, what does section (d) really tell us? I do not know and that is a difficulty. I have seen several difficulties like that. Even in clause 40(e) which states: “any economic or social cost or benefits...,” all these are the material lines which—[*Interruption*]

3.20 p.m.

Mr. Humphrey: Which clause is that?

Sen. J. Yuille-Williams: It is clause 41(e).

When one looks at clause 30(1) “Withdrawal or modification of development plans” which was also raised today, but I would repeat it again. In clause 30(b)(i) it says:

“ in the case of an approved development plan for the whole of Trinidad and Tobago, be subject to affirmative resolution of Parliament;”

That is the general plan.

Clause 30(1)(ii) states:

“in the case of any approved development plan other than one specified in subparagraph (i), be subject to negative resolution of Parliament;”

I am saying we have the guidelines here and this is the more detailed plan and I am wondering why is that not also subject to affirmative resolution of Parliament. That is the sectional plan of the whole south, or the north/west of the country. You

are having the approved development plan for the whole of Trinidad and Tobago which comes to Parliament for affirmative resolution, but when you go into the sectional plan it is negative resolution and I am wondering why. I think that should also be affirmative resolution.

I would also like to get some information on clause 40(3) which states:

“Where the application relates to a subdivision of land, the Commission or the planning authority shall have regard to the health, safety, convenience and welfare of the future inhabitants of the subdivision, and of those presently residing in the vicinity, and to—

- (h) “the need to provide a variety of forms of housing for the inhabitants of Trinidad and Tobago.”

What does that mean? How does that interfere with the permission which I am seeking? Does it mean that in this particular place there is a particular style of houses, of a particular colour that are desired in that area? What does that mean to a developer who wants to develop a particular piece of land, when he makes an application to put down a particular type of housing which he feels he would want to? Are you going to consider what the country needs before he gets the permission to do that? I might be wrong. I am asking for an explanation and I am just using these examples to show as we go through this, that we are seeing a number of those clauses which need some consideration.

If you turn to clause 41(1) “Conditions on permission to develop land”, it says:

“Without restricting the generality of section 40(4)(b), the conditions which may be imposed on the grant of permission to develop land may include conditions—

- (d) Providing that the development of land authorized by the permission shall proceed by stages and setting out those stages;”

Are you telling me that as a private developer you are going to control the process? Or are you going to tell me if I want to put down 300 houses I should put down 50 now and 50 at another time? I do not understand. All I am seeing is that the permission should “proceed by stages and setting out those stages.” Are you going to control the amount or tell me how I shall proceed with developing, or tell me what I can build and over what period of time? Answers to those are very important to me at this time.

Clause 49(1) on the Minister's powers in relation to planning applications and decisions says:

"The Minister may give directions requiring that any application for permission to develop land, for outline development approval, or for the approval of any matter by the Commission or any planning authority required under a development order, be referred to him instead of being dealt with by the Commission or the planning authority."

I want to know why. Why should the Minister give direction, take an application and make the decision? What is the purpose then of the commission or the planning authority? That is why I talk about the powers of the Minister. As I said before, you are not the only Minister who would be here and there are several reasons why this Minister would want to have an application to be pulled out from the rest.

When one looks at clause 49(6) it says:

"The decision of the Minister on any application referred to him under this section is final."

That is where I talk about the super powers of the Minister, and why it needs to be looked at.

Clause 50(1) says:

"Subject to subsections (2) to (7), if, in the opinion of the Minister and having regard to the provisions of subsections 40(1), (2) and (3), it is advisable that any permission to develop land or any outline development approval be revoked or modified, the Minister may by order revoke or modify the permission or outline development approval."

I am wondering if some kind of victimization cannot take place there and negatively affect the planning. This is under the section "Revocation or modification of permission to develop land." I think we need to look at these things. They might have looked to you as absolutely necessary, but I am talking about our rights and that is why I am saying that we need to be able to enjoy our property and I am seeing controls coming in and the Minister has so much power to do it.

I am going to go back to what I saw when I heard someone talk about clause 97(1) which says:

"No court shall order any damages payable to any appellant who has been successful or partially successful in an appeal against an immediate compliance

order, a compliance notice or an environmental appeal order, but the Board shall have sole and exclusive jurisdiction to decide whether any compensation, representing actual loss suffered by such appellant, ought to be paid, and the Minister shall give effect to the decision of the Board.”

I am wondering if it is in the same context of which Sen. Mc Kenzie talked about the constitution of this board. We are saying that damages are the sole prerogative of the board, the court cannot award damages and if there is anything, one must go to the board. I am saying I do not know what is the competence you have on the board, or the people on the board, but I do not see why you should say the court cannot order damages. We need to look at that very closely.

Clause 98(1) which is closely allied to that says:

“The Commission, a Planning Authority or a person entitled to appeal to the Board under sections 94 or 95 may, with the leave of a Judge of the Court of Appeal or upon the certificate of the Board that the case is a proper case for appeal, appeal a decision of the Board to the Court of Appeal on a question of law.”

It seems as though it is only on a question of law and I am wondering why one cannot appeal to the court on a question of damages. That needs to be looked at. These are some of the things which I have looked through and that is why I thought when we talk about people’s rights to enjoy their property, this is what I am talking about. If I can go to the court on a question of law, then I feel that the Appeal Court should be allowed to award damages as well.

These are just a few which I picked out as a lay person and if these affect me as a lay person, I am quite sure in these pages there are several other areas which need to be considered. I think we need to stop for a while and look at some of the things that we have.

There is one other area which I thought very important and that is clause 106(1) which says:

“Any person who—

- (a) assaults, molests, resists, obstructs, threatens, intimidates or hinders, interferes with, or uses indecent, abusive or insulting language to any officer or other person acting under the authority of this Act;”

Hon. Member: That is out. It has been amended.

Sen. J. Yuille-Williams: It has been amended! Thank goodness. What has been amended?

Mr. Humphrey: The entire clause.

Sen. J. Yuille-Williams: Thank you very much, because I thought it was pretty trite to put that into the legislation.

Mr. Vice-President, I also looked at the areas where this bit of legislation erodes or conflicts with other legislation, and I pulled the Trinidad and Tobago National Trust (Amdt.) Act 1997 and looked at the listed buildings in Act No. 11 of 1991 and I agree with those who had spoken before on this. I was really surprised to see that this piece of legislation took in everything, in fact, it was all inclusive and one wondered whether or not there was anything left out of it. The only matter which did not come in was the other bill which we were going to do later today.

Mr. Vice-President, in terms of those comments—and I made them particularly to show that there are so many areas within this legislation which need to be addressed—I only picked out those that I went through, and therefore, I felt that we should spend some more time doing it.

I thought the reason we met at 10.00 a.m. today was because the Minister was going to spend a long time going through this legislation so we could see the meaning of the different clauses, and other Members of the Government would have assisted us in explaining much of the legislation, but that was not to be. There were other things which did not border on the legislation presented to us. However, this is a time when legislation has affected all of us and I agree with everybody that we need to put our thoughts together and, therefore, I am hoping that the Minister would allow it to go to a Select Committee. I know that we have been here before, not particularly with this Minister, but with others, and we had begged for certain things to happen, but I think sometimes in haste, we had allowed things to go by and other people had allowed things to go by and used the majority and afterwards regretted that they allowed it.

I do not feel that we should leave the Parliament and then regret—*[Interruption]* I am talking about people who were here and made comments on certain pieces of legislation which we spent hours doing and afterwards there was a recanting on what had been done. I think this is the time we really need to be serious why we are here. We have taken time to be here, and I was telling my

colleague that I know the persons who work in this field, when they come to the Parliament and hear us talk, they say we are non-technical and we are making these comments. I say that these comments are not directed against any member of the commission or planning team. We are doing it because we honestly feel that since it is going to affect the lives of so many people, we really need to have it just right.

3.35 p.m.

I am saying, therefore, from the few comments I have made, I have difficulty with understanding a lot of it; I have difficulty with accepting a lot of it, especially those legal parts that are put within it; I have difficulty with the overlapping with other bits of legislation. As someone said, this is something that would affect the ordinary man. How is he going to respond to it? How am I going to tell that man who is going to put up his house tomorrow, what are the steps he should take to get permission to build on this piece of land which he had saved for so long to acquire?. This may seem very basic and elementary, but this is what this is all about. This is not only for the persons with many acres to develop; this is for me with 5,000 square feet of land. I want to put up some kind of building, and I need to know what to do. Remember, we have moved out the decentralized type of authority where I know I could liaise with the local authorities. We have now gone into a highly decentralized authority without very much direction.

I remember the hon. Minister was not happy with his visit when he was here the last time. He felt that the culture in the Senate was very similar to the Lower House, but we feel that we are making a contribution to this legislation and in the long run a contribution to the development of Trinidad and Tobago.

Mr. Vice-President, I thank you for the opportunity to make my comments and I hope that the hon. Minister will agree to let this go to a select committee of the Senate.

Sen. Diana Mahabir-Wyatt: Mr. Vice-President, somewhere in the Standing Orders it is said that Senators should not just repeat what was said before, so I am not going to do that. I agree with a number of submissions which were made by some of my colleagues and I disagree, naturally, with others.

I would just like to start by congratulating the Minister on bringing this Bill to Parliament because it is a genuine attempt to clear up the frustration, bureaucracy and problems that we have all been experiencing over many years in getting planning outline permission and trying to get development going in this country. I sincerely and heartily thank him and his committee for the effort that has gone into

this because it is vastly overdue. We all know people who have literally gone broke waiting for planning permission. That point has already been made and I do not want to repeat it.

I would like to ask six questions of the Minister and I hope that he will take these into consideration so that the select committee will, in turn, take these into consideration. One of the things the Minister spoke about in his opening remarks was bringing the people of the country into the process. I thought that was an excellent approach. I know this is one which his Government has adopted as a policy and it is one to which I would like to come back.

I am particularly gratified about clause 106, which finally, has brought into the Bill itself, anti-corruption provisions. It has brought provisions for non-compliance and also provisions for anti-corruption in clause 2. I think this is very important because for too long we have lived on a steady diet in this country of stories about brown paper bags filled with blue notes that help one to get permission for development or building purposes.

My question is that I would like to know if the amendments in clause 52(a) will provide for past offences; in other words, where complaints are being made about dangerous or unsafe developments that have already been built for which permission was given for whatever reason—financial or other inducements. *[Interruption]* This would not be covered? Okay. If people are already living in unsafe structures for which permission has been granted, whose responsibility will it be to take action in those particular cases? If the structures are unsafe and are endangering people's lives, I would just like to know if anything is going to be done in relation to—I do not want to say retroactively, but the word I am looking for is to correct—malfeasance, I suppose, which has gone on in the past.

My second question has to do with the rather Byzantine structure of the interrelationships amongst the various organizations that are reflected in this Bill. We have just seen five speakers, all of whom are reasonably, intelligent, well-educated people, all very confused about the interactions of the various organizations. The National Trust Act—and I repeat that subject at the danger of contradicting myself—I would also like to know whether the Act is going to be rescinded—it is not reflected in this Bill—or is it going to be put under this ministry and how is it going to relate with the provisions that we are now hearing?

I will not repeat what Sen. Prof. Kenny said. As I said, I agree with him entirely: it is very confusing. Given the point that was made earlier about the

environmental impact assessment, I still think that when the National Trust was set up, the original idea was to bring the people into the process, which is what the Minister said he wanted to do. This seems to be phasing out that section of what the National Trust Act was set up to do, list buildings. I am just wondering what the policy is in relation to the National Trust Act.

We have waited under three governments to have the board appointed. For some reason, government after government refuses to appoint the board and, therefore, we have lost enormous amounts of possible grant funding which could have enabled us to save some of the historic buildings in this country. Every time I go by the Cabildo building which is right next door to Parliament and I see it being used as a shed for workmen who are hammering nails into the crumbling walls to hang their clothes, I want to cry. Nobody looks at it, or does anything about it. It is just being used as a shed. This is probably one of the oldest and last Spanish structures of its kind in the country. Its preservation has been raised and raised and nobody cares whatsoever. The Citizens for Conservation group has talked about it, has produced document after document, and nobody cares. This is not negligence; it is deliberate destruction, because no one can claim that it has not been called to the official attention. I do not understand the relationship between the National Trust, the EMA, the local government regional authorities, the IMA which is being paid for by taxpayers' money to both set itself up in business and go into competition with the taxpayers who have set it up. It is all very confusing. I hope the Minister or the select committee will unconfuse us a bit.

In relation to this section, I wonder if the Minister can take up the relationship of clause 62—if you can just find it—which rescinds certain provisions of the Municipal Corporation Act, No. 21 of 1960. It also rescinds certain provisions of the Public Health Ordinance, Chap. 12:04. If we could relate those to clause 18 where the Minister “may appoint a local authority” which could be the Tobago House of Assembly or another authority for the purpose of carrying out this plan. I am concerned, as I had been earlier this afternoon, about the position in Tobago, but I am totally confused about the interrelationship among these various bodies in relation to these two sections. I am hoping the Minister will either put my mind at rest or at least refer these to the select committee to look at.

Secondly, I wonder if the Minister could also enlighten me on clause 27 which has to do with land acquisition, in relation to clause 18. Clause 27 talks about the powers of land acquisition “for public purposes, which can be used, where in the opinion of the Minister”, and so forth. Is this power to acquire lands now going to

rest with the commission and can it be delegated to the Tobago House of Assembly, which is what I was asking the Minister earlier? Can it be delegated to any of the other regional bodies? And how is this going to cross with the existing legislation which exists in relation to that?

My fourth question has to do with— [*Interruption*] I was just told to echo the question that dealt with *ad hoc* arrangements: whether there is anything that can be done before this Bill is passed, and while we are trying to get it through the select committee, to do something to save buildings like the old Cabildo building.

My fifth question has to do with policy. In the Second Schedule to the Bill, section XII, I am delighted to see that one of what I regard as being the worst aspects of visual pollution that takes place in Trinidad is being addressed, and that is outdoor billboards. I would like to know if the Minister can tell me if his Government has a policy in relation to advertisements being put on Government property for financial inducement. I refer specifically to the large ads that are on various buildings in the Savannah which are advertising Sen. Kenny's favourite bugbear, tobacco. I do not care what they are advertising, I just want to know if this is consistent with Government policy.

I would like to make a very serious and formal request of the Minister, that the select committee and/or the Minister and/or the commission consider the complete banning of billboards within the sight of highways because they are traffic hazards. We have had so many children killed over the last two years in maxi taxi accidents. I know as a fact that in other countries, billboards are prohibited within viewing distance of highways because they draw one's eye from the highway, distract drivers, and cause traffic accidents. This is not a matter of opinion or conjecture; it is a matter of fact.

We are now getting into American culture where we have neon billboards, which if one looks on one side, they are flashing on and off saying, "Look at me, look at me." As a matter of national security the children of this country should not be driving in maxi taxis to and from school where they have to go up and down roads where drivers' eyes are being distracted looking at billboards, flashing or not. Where it comes to outdoor advertising, I am extremely pleased that the Minister has seen fit to put regulations in the Bill before it is passed so we have the chance to comment on them. If I had the power to do so and I thought that it would make any difference, I would formally move an amendment to say that no outdoor billboard advertising should be allowed on any public highway within sight

of where cars are passing. I honestly believe it is a traffic hazard and dangerous to people's lives. We have lost too many children already in this country.

I notice in the old Act, No. 35:53, which deals with advertising, there were whole areas of the country where it was prohibited to have billboards, including scenic drives and various public parks, except with a written application to and consent of the planning authorities. If we cannot ban them from all highways, at least we should ban them from those highways where children are passing to and from school and on those highways which we are trying to preserve. We keep talking about policy and eco-tourism. The Tourism Industrial Development Company (TIDCO) is doing its best to try to attract tourists and what are we giving them? We are giving them lovely scenes on billboards. We really think they come to Trinidad and Tobago to look at advertising, not to look at what is, to my mind, some of the most beautiful scenery in the world, especially during rainy season. So I would seriously plead with the Minister to take these points under advisement and they can be taken up before the select committee.

One last point which I would like to mention, and that is clause 11 under the regulations. I would just say that I am extremely happy that, whatever the faults that we have in this country, we have finally brought to Parliament, something to preserve the lives of trees. This may preserve the lives of hundreds of years old samaan trees, immortelles and flambuoyant, which people have been cutting down willy-nilly. Maybe we are still going to cut down people and pass or maintain laws that allow us to kill people, but if we can prevent the cutting down of a 100-year-old creature that has lived longer than we have—or a 200-year-old tree—I think that we have done something which is spiritually, ethically and morally of great advantage to this country.

I thank you, Mr. Vice-President.

Sen. Philip Marshall: Mr. Vice-President, let me start by supporting the call for a select committee to review this Bill and also to congratulate the hon. Minister and also the members of his team who have worked assiduously to put together this very detailed piece of legislation.

Mr. Vice-President, in the world of today or the world tomorrow, you would certainly hear of plateau organizations; you would hear about network organization structures and network organizations. If you would forgive me, Mr. Vice-President, for the use of unparliamentary language, I would certainly refer to the planning commission as the “mother” of all network organizations.

I am in no way being flippant. Why we are having these contributions is because we are facing a very complex problem and to make light of the complexity, is, in fact, to criticize the significant work that has been done. For example, how many times do we drive on the road and see it being dug up by WASA and say, “Why could they not have told the Ministry of Works and Transport that they needed to dig the road? This is a recently paved road.” So we are talking about a complex issue.

Mr. Vice-President, let me for example, illustrate the complexity by just listing, from listening to the contributions, I think there are approximately 30 stakeholders involved. We have, no doubt, the Ministry of Finance—they have to find the money; the Ministry of Planning and Development; Ministry of Housing and Settlements; Ministry of Agriculture, Land and Marine Resources; Ministry of Works and Transport; Ministry of Public Utilities; the National Physical Planning Commission; the various local authorities, because a local authority can be deemed to be a planning authority, so can the Tobago House of Assembly. We have talked about the Environmental Management Agency, reference was made to the National Housing Authority as well as NIPDEC. We talked about the Lands and Surveys Department, the Town and Country Planning Division, the Self-help Commission—probably for looking at housing development. We have referred to the National Trust; we have referred to community-based organizations. We are talking about utilities such as WASA and TSTT. We have talked about the various state companies. We have probably had some reference to other organizations that may help fund the development.

3.55 p.m.

In fact, Mr. Vice-President, if you look at the objects and purposes of the Bill, clause 3(1)(e) says:

“to assist in the orderly, efficient and equitable planning, allocation and development of the resources of Trinidad and Tobago and of its various regions taking account of all relevant social, economic, ecological and cultural factors so as to ensure that the most efficient, equitable and environmentally sustainable use is made of land in the interests of all the people of Trinidad and Tobago;”

If one looks at that mission statement—and there are many others—I am sure one could be forgiven for assuming that this commission almost sounds like a lost

government looking for a country to manage. *[Laughter]* Mr. Vice-President, we are talking about a very complex piece of legislation because of the significant information requirements needed to assure the proper design of the organizational structures.

Mr. Vice-President, this would be a very short contribution. I think it is unfair to criticize this proposed Bill from the perspective that there are so many organizations involved, that accountability and responsibility is not clear. All the organizations to which I referred have to be involved. This is where I think a problem, in terms of presenting this Bill, may have to be resolved.

At one time I know the Government and the Leader of Government Business in the Senate were responsible for the use of information and information technology. I am aware that the Ministry of Housing and Settlements, in its one-stop shop concept has, in fact, enabled an entire demographic profile of Trinidad and Tobago, where they have photographed and put into digital land-use maps, using geographical positioning systems, an entire profile of the land, its use, its occupancy and its purpose within Trinidad and Tobago. Mr. Vice-President, that is the essential issue that supports the ability to service and procure the deliverables in this Bill.

What I think should possibly have been done, is that we have a fairly clear and simple delineation of responsibilities for obtaining the various land development permissions. However, what has really been incorporated in this Bill is, maybe, work that is simply required to be done in the background. In other words, use the resources of our demographic digital profile of Trinidad and Tobago; let all the respective agencies that have to make contributions in terms of land use in the background, as it were, make their decisions about what a specific piece of land or area is to be used for, be it residential, industrial or for process plants, and that what we already have mapped out in advance, is the potential use and environmental impact of any area within Trinidad and Tobago. So that permission would have already been sought because all the agencies that have to contribute to the respective decision-making process would have done their work in the background. Therefore we would have a very simple process: if somebody applies to put up a factory in a residential area, we would say this is not possible because we do not have the water supply and so forth.

What, I think, has confused and misled us is that we have envisaged, by the language here, that all the state agencies and different legal commissions and so forth, would be getting together to make decisions for the first time as an elapsed

period of, maybe, one year goes by waiting on these permissions. It need not be like this. It is complex because all the information requirements from all these various agencies is required. But let us do that first. We should have, therefore, planned land use ready and available for permission from the various classes of citizens or, in fact, investors. That is a very important point.

When investors are looking—like in the Ministry of Energy and Energy Industries—to come to Trinidad and Tobago, a key issue for them is the quickness of decision. They have, maybe, commitments to meet in terms of funds allocated for their potential investments. They cannot wait for a year or two, to find that inappropriate sites have been allocated to them, or after the allocation then the environmental impact assessments are done. Let us distinguish ourselves as a nation in the competitive world that the quickness of decisions, quick feedback, is where our money should be put and at the same time take into consideration all the concerns and requirements of the various stakeholders.

Although this is pointing us to the way forward, we have a lot of remedial work to do in terms of inappropriate situations in Trinidad and Tobago. Mr. Vice-President, for example, we probably have the only main highway in the world where there is a pedestrian crossing on it. We are not known in Trinidad and Tobago to stop at red lights. These little issues are very important. We have all these sophisticated legislation and capabilities but yet we run the risk of people being killed or maimed because of very basic local problems like these. I know that our present Minister found that pedestrian crossing there so this is certainly not a criticism. We have to find the money to do a lot of remedial work.

With this brief contribution I support the need for us to look at this Bill in committee and deal with the perspective or complexity that it deserves and maybe we need to simplify the organizational structure and clarify the accountabilities and responsibilities.

I thank you, Mr. Vice-President.

Sen. Cynthia Alfred: Thank you, Mr. Vice-President, for the opportunity to make a contribution on this very important piece of legislation. Mr. Vice-President, land as an entity is undoubtedly one of the most important assets of any individual and, by extension, the national community. I must certainly congratulate the team for putting together this formidable piece of work.

When the members of the team were presented with this request to put this sort of legislation together, I am sure they felt proud in that their expertise was called upon to formulate something that would be of benefit to the national community. For this, I think, we should congratulate the team and, by extension, the Minister for this piece of legislation.

I am sure we would be forgiven, therefore, for making the type of contributions that have been made and would continue to be made, because obviously when this document was put together, the members of the team would have assumed that there would have been criticisms of the right kind, and, therefore, when we make our contribution we expect that the Minister and the team would take our contributions in the manner in which we offer them.

Mr. Vice-President, as has been said before, a document of this size and intent obviously needs extensive consultation and further work. I agree with all the speakers that it needs to go to a committee for further discussion and later on, ratification.

The Bill says:

“An act to provide for the orderly and progressive development of land...and for other powers of control over the use of land...”

4.05 p.m.

It is the expression “use of land” that I would like to speak about first. The Minister, in his presentation, made reference to areas of inconvenience and no rational planning along the East-West corridor and when the comment was made, I said to myself that perhaps the Minister would give second thought not to the Squatters’ Bill as such, because the Minister intends, as far as we know, to regularize squatting in certain areas. I am not at this stage saying whether I agree or disagree—the Bill has not come before us as yet—but one would admit that people who occupy lands, lands that are not given to them in a formal way, usually have the tendency to put up buildings all over the place and, therefore, if we are talking about the proper use of land, I hope the Minister would give some consideration to regularizing that particular type of use of land.

I have to turn my attention to Tobago. In Tobago, land title has always been a controversial point in the sense that so many parcels of land belonged to our grandparents and great-grandparents and, in some cases, it is impossible to find the correct title. I would like to see something put in this piece of legislation to

address that particular problem, and I would make a suggestion. Some years ago, Dr. Eric Williams visited Tobago, and the whole question of land title came into focus. He made a suggestion that perhaps where there is difficulty in determining boundaries, the interested parties should get together in front of maybe a tribunal or some such body and agree to perhaps one, give up a little piece of theirs, another give up a little piece of what they consider to be theirs. In other words, if this is not done, we will find that the title of certain lands will never go to any family or any individual, because there is always the dispute of where the boundaries are.

Mr. Humphrey: Mr. Vice-President, I think the Member is anticipating three pieces of regulation that have already been approved by Cabinet: the Land Adjudication Bill, the Land Tribunal Bill and the Land Registration Bill. All these matters are well known to all of us who are engaged in physical development, and they are very urgent, but those three pieces of legislation—and the one before us—will enable the regularizing of title of all land.

Sen. C. Alfred: Thank you very much, Mr. Minister. It is indeed timely and will certainly solve a lot of the problems of some of the people, especially in Tobago.

Mr. Vice-President, I wondered where the Tobago House of Assembly came in this whole Bill, and then the Minister took pains to point out where, in fact, the Assembly has been given certain powers if you like. Then I had a look at the Tobago House of Assembly Act, No. 40 of 1996, clause 54 which says:

“Upon the coming into force of this Act....lands and other properties are hereby vested in the Assembly in right of the Republic of Trinidad and Tobago”

So, we know that the Assembly has state lands vested in it. It becomes an agent of the Republic.

This brings me to some articles in various newspapers. If we are discussing a particular Bill, obviously Tobago has to come into it. I was somewhat concerned about certain articles I read in certain newspapers, and I would like to make reference to some of these. In the *Tobago Star* of Wednesday, July 8, 1998 the headline is:

“THA must shed light on Providence project.”

Then it goes on further to say:

“Road works lead to dangerous landslides”

The article mentions a particular place, Providence Road, where a project has turned into nightmare in more ways than one, and so forth. We know that in trying to get Providence Road and other roads done, the Assembly's intentions were good, but according to this article, the Assembly has to let people know whether certain systems were put in place before it went into the construction of this road and other roads. Also, now that so many landslides have come about in the area, allegedly because of the way the road was cut, whether they would take this into consideration and do something and ensure that before any future operations are done, they would put certain things in place.

Out of this, Mr. Vice-President, on the *Tobago News*, Friday, August 14, 1998 page 3 says:

“Land owners complain of THA encroachment”

Concerning the questions posed to the Minister of Tobago Affairs earlier—I know he said some he could answer and some he could not, and he would come back with an answer—it was very disturbing that one person in particular wrote that \$20,000 worth of a cultivation project of peas, tomato, and so forth, was destroyed by vehicles from the Ministry of Works and Transport. The vehicles were cutting the land, according to the gentleman, without any consultation from him.

He was not the only one. There is another person who says the same thing, and I have been getting complaints that too many persons are complaining that apparently the Assembly did not enter into any sort of consultation, and they are not discussing compensation for persons who would have lost land because of development. We are all for development, but two wrongs do not make a right and if, indeed, the lands have to be used for development, then we suggest that the Assembly gets its act together and ensures that it follows the letter of the law to ensure that persons are compensated accordingly.

Then, Mr. Vice-President, I go to another headline which is perhaps of greater or as great importance. Again, the *Tobago Star* of Wednesday, July 8, 1998 which says:

“Charles opposes Airport Authority's plans to extend Crown Point”

It goes further to say:

“Airport at standstill—travelers have to settle for makeshift building”

What it is saying, in essence, is that when the plan for the reconstruction of the airport was proposed to the Assembly, the Assembly agreed, but subsequently, the Assembly changed its mind and now there is deadlock. The Assembly says that it wants a new airport, according to this article, whereas the Airports Authority says that it needs only to do some renovation works. The part that disturbs me is that the Airports Authority says:

“Then we do not need to bicker anymore with the Chief Secretary, as the Central Government could override his authority.”

That little piece says quite a lot.

In other words, the Airports Authority is saying, according to the speaker, that if Mr. Charles or the Chief Secretary insists that he wants a new airport and the Airports Authority says, “We do not,” then they could go to the Minister and, according to what he says, the Minister will make the decision.

Mr. Vice-President, we have to be careful. Perhaps the Minister may or may not want to comment on this statement but, as he said, he would not interfere in the development plans of the Tobago House of Assembly while, at the same time, he said the Assembly is an agent of the Republic of Trinidad and Tobago. That particular issue needs to be addressed, because sometimes in any one day, one flight could bring as many as 250 persons, and one has to be realistic. If the renovative works are going to see to the needs of the people for a period of time then, perhaps some sort of consultation or dialogue needs to be held between the Assembly and the Central Government, because the airport is situated in Tobago, but it is obviously a national and international problem.

Finally, in respect of newspaper articles, the *Tobago Star* of Wednesday, August 12, 1998 says:

“Under 17 controversy

Tobago may lose venue for tournament.”

That is why I asked the supplemental question in respect of whether the Minister knew, or would say which piece of land was being acquired for the under-17 tournament stadium. According to this article:

“FIFA Vice-President, Austin Jack Warner, is giving serious consideration to replacing Tobago with Grenada as one of the four venues for staging the 2001 World Under-17 tournament.”

Where nationals of this country residing in Tobago are concerned, this is a very serious state of affairs.

It goes on to say:

“I am in a fix over what to do about Tobago. They are still fighting over where the proposed new sporting facility should be located and as far as I can see, there is no assurance that the venue would be ready for the tournament.”

You see, sometimes we come to a sort of deadlock and, while the Neros may be beating their chests and deciding not to give way, Tobago, figuratively speaking, is burning. So, we would suggest again that there be some sort of intervention, if it is at all possible, without in any way attempting to take away the authority of the Tobago House of Assembly. Why should something as important as the location for a stadium provoke such a controversy that up to now, according to the Minister, he could not say. The Minister said something that was even more disturbing. That he was asked to take it to the Cabinet or the national Parliament to acquire a piece of land.

4.20 p.m.

So maybe, while all this thinking and talking is in progress, they might just decide to go to Grenada and Tobago would lose out on something that could be so beneficial to the people, especially the young people of Tobago.

Mr. Vice-President, I want to mention two last points. With regard to land use, we are all aware that the Aliens (Landholding) Act has been repealed. I am not getting into a discussion on whether that was a good or bad thing; everything has its good and bad, some are saying not to sell the lands, but people are selling the land because they are getting something out of it. But what we are very disturbed about is the fact that foreigners, who give the impression that they are buying property to set up private residences and, if my information is correct, are, in fact, setting up private hotels, guest houses if you would, so that they arrange for their people to come from whichever country—and this is not relegated to one set of people—take up residence in their private hotel, but I understand that all the arrangements are made and all the fees are paid outside of Trinidad and Tobago. These people have a package. So when they come in Tobagonians do not benefit. We feel that if people are given permission to build private residences, then they must stick to private residences. Perhaps it will be good to have an investigation into this whole matter to ensure that the land use for which these people apply is being used in the proper way and not for any other purpose.

Finally, again the issue of land use and this may sound just a bit off, but in fact, it has to do with hotels. We know that there are some hotels in Tobago, one in particular, where the hotel has been built by, I think, a joint venture, but we are extremely disturbed, because we understand and we know for a fact that the staff in one particular hotel, over the years—it has not been very many years, but since that hotel has come into operation—have not been treated as they should. They have tried to have recourse to the labour division and they have got some relief, but again, we are talking about land use, we are talking about buildings, we are talking about taking all these issues to a natural, logical and good conclusion and when we have hotels being constructed and staff not being treated properly, then of course, that is cause for concern.

So, having said all this, I would like to end by saying that yes, this piece of legislation, I believe, was intended to encapsulate so much. It has, but perhaps in the very size and vision of it, it is trying to force too much into one document. So I would strongly agree with all the other speakers that we are happy to support something of this magnitude, but indeed, we would like to see it go before a committee where all the different sections could be threshed out. I must admit that I too was disturbed about the question of the commission being able to list buildings and the whole section that deals with it, because I, too, feel that if there is a national trust, and there is indeed one, in the discussion at committee level, should that be agreed to, I hope that entire situation would be rationalized and that it would be decided who will be in a better position to list buildings, *et cetera*.

So I thank you, Mr. Vice-President and hope that indeed there will be a committee to look into this entire matter.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, before moving to adjourn the Senate this afternoon, I would like to indicate that, as a democratic Government, we are taking into account many of the contributions made this afternoon and on Thursday we will, in fact, outline the Government's position on the proposal or suggestion that the matter be referred to a select committee of the Senate.

In the meantime, may I take this opportunity to serve notice that we will be continuing with Bill No. 1 and concluding that particular matter, one way or the other, on Thursday. We shall be proceeding to Bill No. 2 on Thursday and I will ask all my colleagues to be prepared for a late night sitting on Thursday.

Adjournment

Tuesday, August 18, 1998

Mr. Vice-President, we would like at this time to propose and to move that the Senate do now adjourn to Thursday, August 20, 1998 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.27 p.m.