

*Election of Presiding Officer*

*Thursday, September 10, 1998*

**SENATE**

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The Senate met at 1.35 p.m.

**ELECTION OF PRESIDING OFFICER**

**Clerk of the Senate:** Hon. Senators, there is a procedural matter which we must deal with before the start of today's sitting. As both the President of the Senate, Sen. The Hon. Ganace Ramdial and the Vice-President of the Senate, Sen. Philip Hamel-Smith are out of the country, Standing Order 5(1) states that:

“The President, or in his absence the Vice-President, or in their absence a Senator (not being a Minister or a Parliamentary Secretary) elected by the Senate for the sitting, shall preside at the sittings of the Senate and shall act as Chairman of Committee of the whole Senate.”

I now call on hon. Senators to nominate a Senator to preside over today's sitting in accordance with Standing Order 5(1).

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Madam Clerk, I wish to nominate Sen. Diana Mahabir-Wyatt.

**Sen. Nafeesa Mohammed:** Madam Clerk, I second the nomination of Sen. Diana Mahabir-Wyatt.

**Clerk of the Senate:** Are there any other nominations? There being no other nomination I now declare Sen. Diana Mahabir-Wyatt the Presiding Officer for today's sitting. [*Desk thumping*]

**PRAYERS**

[MADAM PRESIDING OFFICER *in the Chair*]

**SENATOR'S APPOINTMENT**

**Madam Presiding Officer:** Hon. Senators, I have been advised that his Excellency the President has appointed Mrs. Elaine Teemul a temporary Senator with effect from September 9, 1998 and continuing during the absence from Trinidad and Tobago of Sen. Dr. The Hon. Daphne Phillips.

**OATH OF ALLEGIANCE**

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

**ABUNDANT LIFE MINISTRIES (INC'N.) BILL**

Bill to provide for the incorporation of the Abundant Life Ministries and for matters incidental thereto, brought from the House of Representatives; read the first time.

*Question put and agreed to.*

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Deposit Insurance Corporation for the year ended December 31, 1997. [*The Minister of Finance (Sen. The Hon. Brian Kuei Tung)*]
2. Report of the Auditor General on the accounts of the Diego Martin Regional Corporation for the year ended December 31, 1994. [*Hon. B. Kuei Tung*]

**ARRANGEMENT OF BUSINESS**

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Madam Presiding Officer, I seek leave of the Senate to deal with "Bills Second Reading" instead of "Motions".

*Agreed to.*

**1.45 p.m.**

**REGULATED INDUSTRIES COMMISSION BILL**

**[SECOND DAY]**

*Order read for resuming adjourned debate on question* [September 8, 1998]

That the Bill be now read a second time.

*Question again proposed.*

**The Minister of Public Utilities (Hon. Ganga Singh):** Madam Presiding Officer, on the last occasion I was on my feet winding up this debate and I thought it would be prudent this afternoon to reiterate the purpose of this Bill. I make reference to the Explanatory Note. It says:

"The purpose of this Bill is to repeal and replace the Public Utilities Commission Act, Chap. 54:01, in order to establish in place of the existing Public Utilities Commission with its *quasi-judicial* powers, the Regulated

Industries Commission. The Regulated Industries Commission would have as its prime purpose the regulation of service providers, those undertakings, whether publicly or privately owned, that provide under monopolistic conditions, services which are of a public utility nature and essential.

Regulation by the Regulated Industries Commission would, *inter alia*, take the form of performance audits and the setting of standards for services. The Commission's involvement with rate-making would be that of establishing the principles that would seek to couple compensation for productivity increases with disincentive against inflationary increases."

I do so, Madam Presiding Officer, against the background of what I thought emerged, in some instances, from hon. Members of this Senate. There seems to be some confusion as to whether or not the Regulatory Commission is a regulator or a provider. The monopoly service providers would continue to be the incarnations of the WASA, TSTT, T&TEC, InnCogen and part of the postal services, that is, the Letter/Mail section.

In reviewing the debate, many of the recommendations made by hon. Senators, particularly, the Independent Senators, have been incorporated in the amendments which would be circulated shortly, or may have already been circulated by the Clerk of the Senate. The significant point to note, really, is what is the role that we see, Madam Presiding Officer, for this Regulated Industries Commission? It is the regulation of monopoly providers. It seeks to create a balance between the utility provider, the customer and the Government. I did not want that confusion left in the minds of those who participated.

Madam Presiding Officer, the recommendations of hon. Senators Daly, Prof. Kenny and Prof. Spence, with respect to the environment were all incorporated in the body of the amendments that would be circulated. However, I wanted to give an appreciation of the state of the utilities. We grapple with this question of whether or not the utilities are a public good. If, in fact, they are a public good, how do we go about providing them efficiently for those who are at the lowest rung of the economic ladder? What is the status of the utilities?

The Water and Sewerage Authority has never made a profit. That utility's accumulative deficit stands at over TT \$4 billion. The General Post Office is in a similar position. Its losses represent over 40 per cent of total revenue. In fact, for the year 1998, the General Post Office has estimated its true revenue to be about \$33 million and projected expenses of \$72 million. Poor quality of service and low

public confidence: the General Post Office mail volume has declined by 37 per cent over the last five years.

The Water and Sewerage Authority, after that \$4 billion transfer, is unable to supply continuous water to about 88 per cent of the population. Inefficient operations and low productivity: The General Post Office's productivity is about five to twelve times less than the leading postal administrations. The Water and Sewerage Authority, in 1993 had 37 employees per 1,000 connections as against seven employees per 1,000 in Latin America and the rest of the Caribbean.

Under-investment and lack of maintenance, WASA needs about \$5 billion over the next eight years to provide sufficient water and improve its distribution system. Over 80 per cent of the General Post Office's fleet is not functioning properly. There is a serious lack of managerial capabilities.

The state of the utilities points to the need for capital, management, commercialization and systemic change that would bring about the culture change that would provide for the kind of customer responses that we all desire. However, what are the options available?

Mr. David Osborne and Ted Gabler in their classic text: *Reinventing Government*—How the Entrepreneurial Spirit is Transforming the Public Sector state at page 166:

“Customer-driven Government, meeting the needs of the Customer not the Bureaucracy.”

It is stated quite philosophically here, Madam Presiding Officer. I quote:

“Democratic Governments exist to serve their citizens. Businesses exist to make profits and yet it is business that searches obsessively for new ways to please the American people. American Governments are customer-blind, while McDonalds and Fretolays are customer-driven. This may be the ultimate indictment of bureaucratic governments. Why is it that way? Simple. Most public agencies do not get their funds from their customers.”

Then they go on to develop this thesis, Madam Presiding Officer. However, in a most recent book, by David Osborne and Peter Plastric entitled *Banishing Bureaucracy*—The Five Strategies For Reinventing Governments at page 30 says:

“The five myths of public sector reform.

Our colleague, Baback Armajani, CEO of the Public Strategies Group and the Reinventing Government Network, describes five myths about making Government work.”

**1.55 p.m.**

I heard the arguments here, and I feel that we can categorize some of the arguments within these five (5) categories:

1. The Liberal Myth is that Government can be improved by spending more and doing more. In reality, pouring more money into a dysfunctional system does not yield significantly better results.
2. The Conservative Myth is that Government can be improved by spending less and doing less. In reality withdrawing funds from a dysfunctional system may save the taxpayers money, but it will not improve Government’s performance.
3. The Business Myth is that Government can be improved by running it like a business. In reality while business metaphors and management techniques are often helpful there are critical differences between public and private sector realities.
4. The Employee Myth is that public employees can perform just fine if they had enough money. In reality, we have to change the way resources are used if we want the results to change.
5. The People Myth is that Government can be improved by hiring better people. In reality, the problem is not the people, it is the systems in which they are trapped.”

Very cogent and clear thinking Madam Presiding Officer.

So, what are our options really? Having regard to this situation we have chosen to take an entrepreneurial approach to the way we govern; and this is reflected in the kind of decisions we are making in every sector of the utilities.

It was stated in the arguments of hon. Senators, that there is need for us to focus on that sector of the society in which there is need for some measure of subsidies, especially for the water area.

Let me assure you, Madam Presiding Officer, that this Government is extremely concerned about the social cost of rates and charges, and we are totally committed to supporting truly deserving groups in the society. In fact, Madam

Presiding Officer, we have done more in the last two and a half years than the previous administrations were able to achieve in this set up.

We have been able to keep the price of electricity stable through rate rebalancing when the last increase was granted to the Trinidad and Tobago Electricity Commission. Furthermore, through a deliberate policy of introducing competition at the generation level, we were able to force PowerGen which has an exclusive contract, to reduce the cost of electricity to Trinidad and Tobago Electricity Commission by 10 per cent.

Similarly, Madam Presiding Officer, Sen. Nafeesa Mohammed spoke about the hardship relief programme being merely a PR exercise, if I can recall quite clearly, and she wanted to know who were the beneficiaries.

I say to you, Madam Presiding Officer, that since we established the hardship relief programme—perhaps, I should take this opportunity to indicate the criteria for the hardship relief programme—from June, 1997, 6,356 persons benefited from this programme. For 1998 thus far, 8,400 additional persons benefited from this programme. It is done through the regional corporations, through the Water and Sewerage Authority and through the Ministry of Public Utilities.

The reality is, when you are dealing with poor people—this is not a public relations exercise, this is factual and it can be empirically tested. We have a clear policy, Madam Presiding Officer, on subsidization. We believe in targeted rather than general subsidies. Prof. St. Cyr spoke about that, he recognized the necessity of that kind of approach. The question you really have to ask yourself is, who really benefited over the years from these subsidies? Was it the poorer groups? Or was it the more wealthy in society? In the case of electricity, who benefited from the general subsidies? It is clear to me, it was the wealthy, the industrial and commercial customers.

Madam Presiding Officer, out of the total consumption of electricity in this country, 65 per cent is consumed by industrial customers, about 10 per cent by the commercial customers, and about 25 per cent by residential customers. It is clear, similarly in water, when you look at the 11.5 per cent of this country in areas where they enjoy a 24-hour supply of water, where over 88.5 per cent of the country goes without a proper supply of water, you can see the distribution.

In the postal service a similar situation exists, it is not the poor that benefited from this across-the-board subsidy, it is the residential and wealthy customers. So that, across-the-board subsidies do not help the poor, that is generally accepted now. We take the approach of targeted subsidies, we intend to proceed with that, and we intend to provide competition as far as possible. But, we are dealing with a Bill that deals with monopoly providers.

Another point raised was the issue of the Fair Trading Commission, and the Fair Trading Tribunal. We acknowledge that there is a synergy between the Regulated Industries Commission Bill and the Fair Trading Commission Bill. That Bill will be brought to Parliament within the last quarter of this year, and the next session of Parliament; and that therefore those synergies will be allowed to take place.

The question raised by Sen. Teelucksingh, as to whether or not contractual arrangements entered into in the utility sector, how would this Bill when it becomes an Act, impact upon that? Now, you know, I make no apologies for telling it like it is. The reality is that this Bill ought to have been put in place prior to private sector participation in any of the utilities. So, before you brought in Southern Energy, and Amoco to take over the generation assets of Trinidad and Tobago Electricity Commission this regulatory body ought to have been in place. Before you brought in private sector management into WASA, this Bill ought to have been in place. I say so, not out of the top of my head, but out of learning, out of the experience of those who are engaged in this area.

In an extract from the World Bank IDB publication entitled *Concessions for Infrastructure*, Chap. 5-Regulatory Institutions at page 91:

“Timing of implementation

Infrastructure privatisation in countries such as Chile and the United Kingdom involve establishing detailed regulatory arrangements prior to privatisation. This mandate permits the regulator to supervise restructuring, and pricing reform and offers consumers assurance that their interests will be protected thus reducing possible resistance to privatisation.

It also allows investors an opportunity to develop a better sense of how the regulatory framework operates. Other things being equal, there are persuasive grounds for establishing effective regulatory arrangements before, or at the latest as part of the privatisation process.”

In a sense, the previous regime did not have a view as to how they should proceed, as to how to balance the interests of the customer, against the interests of the monopoly provider and that is why they left the Public Utilities Commission in a state of animated suspension. It is clear that they did not know how to proceed.

Sen. Prof. Spence raised the issue as to why cellular services had been excluded from the legislation. I am advised that there is a policy decision to bring competition in the cellular market and, therefore, the cellular market would no longer be a monopoly market, and market forces will then determine the prices associated with that. So that we expect that the market forces will remain and, therefore, it does not fall within the ambit.

**2.05 p.m.**

**Sen. Prof. Spence:** Madam Presiding Officer, could I ask the Minister to explain what happens when an independent cellular system goes into the normal telephone system? I presume that from the cellular you will be able to speak to somebody on a normal telephone, as you can now. So how will that be arranged?

**Madam Presiding Officer:** Before the hon. Minister answers, I would just like to point out to him that his speaking time has expired.

*Motion made,* That the hon. Minister's speaking time be extended by 15 minutes. [*Sen. B. Kuei Tung*]

*Question put and agreed to.*

**Hon. G. Singh:** Thank you very much, Madam Presiding Officer; thank you for the graciousness for the extension of my time, hon. Senators.

To answer the question, the issue of inter-connection, it will fall within the ambit of the Telecommunications Authority. Therefore they will set the standards and the licensing regime to provide for inter-connection. Once there is competition, inter-connection is absolutely necessary, in order to provide universal service.

**Sen. Montano:** Could you explain that a little more clearly for me? I really did not follow you. As I understand it, the cellular provider must use the land link coming through the monopoly, as we now know it. Who would then be charged with the responsibility for maintaining, firstly, the standard of the cellular service and, secondly, the provision of the rate charged by the land system to the cellular provider?



**Hon. G. Singh:** The issue is one of inter-connection and the principles for determining its criteria and associated charges will fall under the regulatory regime of the Telecommunications Authority.

Madam Presiding Officer, the issue of disconnection raised by Sen. Prof. Kenneth Ramchand—from what is happening around you, and in terms of the economy, it has been my experience—and I just say this as an aside quickly—that there exists a measure of disconnection between this honourable House and the other place.

For example, I made two statements—one on February 5, 1998, on the status of negotiations between the Trinidad and Tobago Electricity Commission (T&TEC) and InnCogen Ltd; but hon. Members do not have that kind of appreciation. Similarly, I made a statement in the House of Representatives on August 14, on the issue of the posts, outlining the whole process which started in 1996. This demonstrates—far from being shrouded in secrecy—that you had very open approach.

I wanted to debunk that myth that we take a kind of clandestine approach. You see, I have the newspaper reports dating back to 1996: “Postal Reform Attracts Twenty Foreign Bidders,” “Minister Sounds Ethics Warning to Postal Bidders,” “Postal Service to Embark on Changes,” “Postal Services Battles to Stay Alive,” “Heartbreaking T&T Postal Services,” ““Don’t be Afraid of Privatization,’ the Union Tells Workers,” “In Search of a Post Office Operator,” “Foreign Frenzy Over Postal Privatization,” “Government Advertises for Postal Operator to Manage Services,” “Post is Looking Up”—Editorial—“Posting for the Future”—Editorial—“Shot in the Arms for Postal Service,” “Postal Union Supports Post Office Privatization.”

So I have decided to make available to the hon. Senators both statements—having regard to my time period. I would have gone into them and demonstrated what they wanted to find out, in terms of those areas—but I would make those two statements available.

The other issue raised by Sen. Prof. Kenneth Ramchand, with respect to customer service, I think I dealt with that in terms of what is our desire and how we proceed.

With respect to whether or not postal services will form part of the Regulated Industries Commission Bill, it is clear that only the monopoly part of it, the letter mail will form part. Under the Regulated Industries Commission, the other part

will be left to market forces and there will be set prices, according to the Universal Postal Union approaches.

Changing the Culture of the Utilities; the quest for the heart and minds of the employees of the utilities; the quest for customer responsiveness. It is not going to be easy. The problem is a systemic one which has to be addressed systemically. In banishing bureaucracy, Madam Presiding Officer, the culture of the public organizations, the values—norms and attitudes and expectations of employees: culture is shaped powerfully by an organization's purpose, its incentives, its accountability and its power structure. Change these and the culture will change. But culture does not always change, just as its leaders will wish it to. At times, it will harden into resistance and resentment. Often it will change too slowly to satisfy customers and policy makers. Hence we have found that every organization that has used the other four Cs—and they were talking about other core strategies—has eventually decided it will be a deliberate campaign to re-write the genetic code that shaped its culture.

From the time we took office, we started the process of culture change in the utilities and the approach of customer sensitivity, customer focus and customer driven organizations. But all the texts of learning, Madam Presiding Officer, tell you that even with the best of will it takes several years to bring about culture change; it takes systemic change in the internal structure of the organization, together with significant leadership, to drive that process of change. So we are dealing with that culture change and we are hoping that having the private sector involvement will help speed up that process.

### **2.15 p.m.**

Madam Presiding Officer, we have recognized that in seeking to attract capital which we need in the utility sector, we are in a global economy, there is global interdependence, we are in a competitive environment so we have to be able to attract capital. Capital is not in search of us, notwithstanding that some people feel that capital is in search of them because they have everything under the sun.

There must be the recognition that you must be able to protect investors from arbitrary action on the part of the Government. Once you invest in the utility sector you will have a significant and large investment in a largely immobile infrastructure. You cannot take it up and run when you are ready to go. Thus, the ground rules must be clear. This is what the Regulated Industries Commission Bill seeks to do: set the ground rules quite clearly.

Many other things were said but I hope we would be able to demonstrate at the committee level, having regard to the time constraint, that we have incorporated those sentiments and brought them to bear upon the Bill because we are interested in proper regulatory governance. We would not want a return to the situation where, as it was stated in the Adam Smith Report, the Public Utilities Commission contributed to the inefficiency of the utility sector in Trinidad and Tobago. Our legacy must be that we put in place a Regulated Industries Commission that would ensure the universality of the utilities, the protection of consumers and investors and to ensure that Government's sectoral policy is carried out.

Thank you.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed, That clause 5 stand part of the Bill.*

**Madam Chairman:** We have several amendments proposed to clause 5. If you take a look at the amendments submitted by Sen. Mohammed and also amendments moved by the hon. Minister, you will notice that both of them refer to clause 5(1). We would take the Minister's proposals first and then Sen. Mohammed's.

The Minister proposed as follows:

"A. Delete the words 'three' and 'five' and substitute the words 'five' and 'seven', respectively.

**Mr. Singh:** We increased the number of commissioners from a minimum of five to a maximum of seven.

**Sen. Mohammed:** It could be increased from a minimum of five to a maximum of nine.

**Mr. Singh:** We felt that nine was a bit too unwieldy but seven is a convenient number.

**Sen. Mohammed:** Except that with nine we feel there could be a broader base in terms of the commission where you would need a lot of expert assistance.

**Mr. Singh:** I do not want to get back into the debate but the technical expertise for the commission would really come from the technical support staff. What we are seeking to do really is not to have too wide an expanse of people. Seven seems to be the limit for us; we would have preferred five but seven is a concession.

**Madam Chairman:** There is another amendment, as follows:

"B. Delete the words 'finance law' and substitute the words 'finance, engineering, law, business, industrial relations'."

Does anybody wish to address this second part?"

**Sen. Mohammed:** I take it we would be coming back to our proposed amendment?

**Madam Chairman:** Yes.

**Sen. Mohammed:** Additionally, this is one of the reasons for asking for a broader base in terms of the commission. Unfortunately, even in our amendment it was not mentioned, that there should be a member or two from the public, stipulated.

**Mr. Singh:** From where will these people who are in finance, law, economics, public administration, engineering and industrial relations be taken? They will be taken from the public and therefore, with the linkage with consumer service committees there would be a wide cross-section of people. We found that it was not necessary.

**Sen. Mohammed:** There should be a member of the public from the consumer interest group simply to give it more teeth.

**Mr. Singh:** There is sufficient teeth in the context of the professions represented. We are firm on this.

**Sen. Mohammed:** You need a watchdog; if it is that the PUC would be a watchdog committee, a member of the public representing a consumer interest group on the commission would be a true watchdog.

**Mr. Singh:** The reality is that these people will be drawn from the public and the profession, they are consumers, and we are comfortable with the nature of this clause.

**Sen. Montano:** Madam Chairman, the one thing that was omitted was the question of someone with a background in environmental science. The Minister

has included the other suggestions we have made but has omitted environmental science.

**Mr. Singh:** With great respect, the hon. Senator is missing the point. The point is, you cannot include every profession that it would impact upon at the level of the commission. What you are going to do is get a measure of significant technical support. As you would see in the amendment to clause 6(1), environmental considerations are part of it, but you just cannot include everybody at the level of the commission. There is a fairly large commission as it stands right now at seven, professionally established, and we are comfortable with that.

**Sen. Montano:** I disagree. I counted seven here: economics, finance, engineering, law, business, industrial relations and public administration. This is one of the reasons we had suggested environmental science and I disagree. While I think that we are in concurrence with the Minister that we are not going to appoint a dentist, I think environmental science is of great significance to the economy at this point.

**Mr. Singh:** I agree with what you are saying, but we have taken that into consideration. Madam Chairman, we are ready to take a vote.

**Sen. Prof. Kenny:** In terms of environmental science it is very vague because it carries a range of disciplines. One can be from health or be a medical doctor, similarly one can be an ecologist. What the Minister is suggesting is in order. If you look at the composition in the EMA Act the words "environmental science" are not used. Environmental science is essentially an American term for a postgraduate degree. It is a family of subjects.

**Sen. Montano:** There is one part of Sen. Mohammed's—

**Madam Chairman:** I would be taking Sen. Mohammed's amendments after.

*Question on amendment [Hon. Singh] put and agreed to.*

**Madam Chairman:** We are now going to deal with the amendments proposed.

**Sen. Mohammed:** Madam Chairman, I beg to amend clause 5 as follows:

- " 5(1)
- (i) In line 1 delete the word 'three' and insert the word 'five'.
  - (ii) In line 2 delete the word 'five' and insert the word 'nine'.

- (iii) Insert after the word 'President' in line 3 the words 'after consultation with the Prime Minister and the Leader of the Opposition'.
- (iv) Add the words 'engineering, industrial relations and environmental science' after the words 'public administration' in line 5 and delete the word 'or' before the words 'public administration' on the said line 4."

**2.30 p.m.**

Madam Chairman, in terms of the composition of the commission, I merely wish to reiterate the call for it to be extended up to nine maximum and not less than five. In this way our proposal to have the additional persons—if environmental science is not the appropriate word, I am sure we can be guided by Sen Prof. Kenny—given the nature of the work of the commission where you have these service providers who would be dealing with matters that will invariably involve environmental matters, especially now where we have an Environmental Management Authority which I understand is about to present its legislation. This will be an environmental code. We need to have some kind of representation from someone with that kind of background as well.

It is not written in these proposed amendments but we strongly feel there should be a member of the public. One, preferably two lay members of the commission, if you wish, instead of the listing of professionals as the Minister pointed out. In this way we feel the commission will really be a watchdog commission in the true sense of the word and would really represent the concerns of consumers because much of the work of the commission will impact on consumers. Granted the professionals will be consumers but I am talking about the opinion of the average citizen of Trinidad and Tobago. In terms of the appointment to the commission, we are saying that these members, according to the Bill, shall be appointed by the President.

On the last occasion the Minister indicated that the President connotes the Cabinet and clearly it would mean that the Minister himself will be the person making the necessary recommendations to the Cabinet. In the interest of more independence we feel that such appointments should be made after consultation with the Prime Minister and the Leader of the Opposition, so that there will be a bit more independence in the process as it is a very significant commission.

**Sen. Yuille-Williams:** I wish to strongly support Sen. Mohammed on that. All it asks for is “after consultation”. He is not bound to accept the advice given but I think the advice brought to the Prime Minister and the Leader of the Opposition is necessary in this case. Remember this is a commission that is going to be representing the interest of nearly everyone of us in Trinidad and Tobago. The President himself may be glad for the opportunity to consult with the Prime Minister and the Leader of the Opposition. We have had it in several other Bills before and I strongly suggest we include that.

**Mr. Singh:** The Opposition is quite clear but this is a situation where we do not wish to extend the number of persons serving on the commission. Because of the nature of the work to be done by the commission there ought to be a high degree of confidentiality in the progress of this commission, therefore, we limit the numbers. We felt that having regard to what was said, seven is a maximum limit.

On the method of appointment we feel that the Cabinet is the appropriate authority and this is not a matter in which there ought to be that kind of approach. Therefore, we do not support what the Opposition is saying.

**Sen. Yuille-Williams:** Broad sectoral policy; this is what we are talking about. That is why we are saying to consult as widely as possible. The word is “consult” it does not say he has to take the advice given. You are talking about the political aspects of the thing that is why we are saying consult with these groups. We have had this before. It will enhance everything and everyone will have a lot more confidence in this Bill.

**Sen. Montano:** The Minister, in his presentation, made much of the fact that this commission was going to operate on an independent basis from the Government and was going to enhance the integrity of its workings and so forth. While he was making his presentation, when you put the disjointed sections together you see that the committees cannot mandate to the commission what the rate should be and the commission cannot mandate to the Minister what the rates should be, or the standards or anything else.

You find that the Minister, in effect, has complete authority to appoint the commissioners. What the Minister has set up here, notwithstanding everything he has said, is that this organization becomes a political creature. The Minister is saying on the one hand that is not his intention but on the other hand that is exactly what he is doing. We are simply asking the Minister that if it is not his intention to do that then what is the difficulty, penalty or the cost of merely consulting with

both the Leader of the Opposition and the Prime Minister? What possible difficulty could the Government have with that position?

**Mr. Singh:** We are quite clear on our position and it is clear to me that the hon. Senator has not read the Bill or does not understand the role or the autonomy of the commission and that the independence of the commission is to be judged at its margins and any movement away from the PUC clearly demonstrates that kind of independence. We are not shifting from our position.

**Sen. Montano:** Madam, Chairman, with all due respect, the Minister still has not explained why—

**Madam Chairman:** We are not going back into the debate. The Minister has made it quite clear he does not intend to move from his position. I will put the question.

**Sen. Montano:** Madam Chairman, with respect I asked the Minister to simply articulate how and why he wanted to move away from what he declares is not a political stand. I say the interpretation of what he is doing is political and to explain why on earth he would not accept the suggestion, from a political point of view, to consult with the Leader of the Opposition and he has not answered that question. With all due respect, I think I deserve an answer.

**Mr. Singh:** By getting the Leader of the Opposition involved you are getting into the realm of political partisanship. As it stands right now it is the executive that is appointed, not a political leader. It is an executive that is appointed to the commission through Cabinet.

**Sen. Montano:** The Minister knows full well that the appointees are going to be those of his own making. Therefore, what you are talking about is a singularity of partisanship at this point without at least the opportunity to consult with the Opposition party, which I think is the correct and proper way to govern the country.

The fact of the matter is that this is a Government that has asked for unity yet how is it that at the beginning of their term of office they invited us to sit with them as part of the Government—

**Madam Chairman:** Sen. Montano, you are getting back into the debate.

**Sen. Montano:** I do not share that view, Madam Chairman. We are dealing with a situation here that has nothing to do with the debate at all.



**Madam. Chairman:** When we start talking about the campaign for elections, I think we are getting outside the Bill. Sen. Montano, I ask you to be guided.

The amendment reads as follows:

“The commission shall consist of not less than three nor more than nine members designated Commissioners who shall be appointed by the President after consultation with the Prime Minister and Leader of the Opposition from among persons appearing to him to be qualified by reason of training and extensive experience in economics, finance, law, public administration, engineering, industrial relations, and environmental science.”

Do you want to add the words, “and two lay members from the public”?

“...and two lay members from the public.”

*Question on amendment [Sen. Mohammed] put and negatived.*

**Sen. Daly:** This might be an appropriate stage to say that I withdraw my proposed amendment to clause 5.

**Madam Chairman:** I have not received your proposed amendment.

**Sen. Daly:** Since it is incorporated.

**Madam Chairman:** Could I ask if all these amendments have been incorporated or do I have to get a copy of them.

**Sen. Daly:** I will indicate as we go along.

*Question put and agreed to.*

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

*Clause 6.*

*Question proposed, That clause 6 stand part of the Bill.*

**Madam Chairman:** We have two amendments to clause 6. The first of these is subclause 3 which has been moved by the hon. Minister. Sorry, I am wrong. The first one is by Sen. Yuille-Williams with respect to clause 6(1). Could I ask that a copy of that amendment—the proposal is that we add a new subclause (o) to read as follows:

“observe the requirements as may be stipulated by the E.M.A.”

**Sen. Yuille-Williams:** I am looking at the Minister's amendment to subclause (c) and I am wondering if it was the same attempt to get the—because I had asked during the debate that one of the functions should be that they observe the requirements of the Environmental Management Authority. I am wondering whether that is what the Minister intended later on in clause 6(c). He said “current national environmental policy.”

**Mr. Singh:** We do not know what incarnation the EMA may take subsequently and this is a cleaner way, clearly, of meeting the requirement.

**Sen. Yuille-Williams:** If that takes care of my concern then I would withdraw my amendment to clause 6(1).

**Mr. Singh:** That takes care of the concern.

*Amendment withdrawn.*

**Madam Chairman:** Sen. Yuille-Williams has withdrawn her amendments to clause 6(1) so we will go on to the Minister's amendments at clause 6(3)(a) which is:

“In subclause 3 -

- (a) in paragraph (c), delete the word “and” in the second place where it occurs;”
- (b) in paragraph (d), delete the words “of service” and substitute the word “service; and”
- (c) insert after paragraph (d) the following paragraph:  
‘(e) current national environmental policy.’”

**2.45 p.m.**

Any comments from anyone?

**Sen. Montano:** Madam Chairman, perhaps the Minister would like to explain why he has gone the route of the broader statement “a current national environmental policy”, as opposed to a tighter statement which refers directly to the Environmental Management Authority.

**Mr. Singh:** I thought I had dealt with it. It is just that this is a cleaner area of drafting in the sense that it would incorporate whatever may be the incarnation of the national environmental policy. It may be the Environmental Management

Authority; it may be something else; we do not know what it may have, but it incorporates the current national environmental policy, whatever is current at whatever time.

**Sen. Montano:** I understand. But, it seems to me that while the Government has the authority to dictate policy and that would be generally followed, the Environmental Management Authority is specifically for setting standards and that is what the RIC is all about. Therefore, it would seem to me to be more logical to have the RIC really following the standards of the EMA, which one would have to assume would be in observance of the Government's policy. I cannot see that one would be in divergence of the other. So, it is just a question of, whether it is policies or standards that we are talking about.

**Mr. Singh:** We will get into fine distinctions if the Senator wants to get into that arena, because when the Environmental Commission comes into being and, by virtue of its ruling, it impacts upon current national environmental policy and you are confined to the EMA, then you are going to get into fine distinctions. We feel that this is the appropriate approach.

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clauses 7 to 14 ordered to stand part of the Bill.*

*Clause 15.*

*Question proposed, That clause 15 stand part of the Bill.*

**Madam Chairman:** We have an amendment to subclause (1) by Sen. Joan Yuille-Williams.

**Sen. Yuille-Williams:** Madam Chairman, I beg to move that clause 15 be amended by:

Deleting the word "Minister" in line 2 and inserting the words "Salaries Review Commission".

It will therefore read:

"The Commission shall appoint for a term not exceeding five years on such terms and conditions as the Salaries Review Commission may determine, an Executive Director who shall be Chief Executive Officer of the Commission."

I do not think that the level of this particular officer should be left to the Minister. I think the Salaries Review Commission should be the body that should be used to determine the terms and conditions of service of the Chief Executive Officer of the Commission. I doubt that the Minister will have any difficulty in accepting this amendment at this time.

**Mr. Singh:** The thinking is that this body, the Regulated Industries Commission, must be able to attract people with sufficient technical competence who would not be circumscribed by the current kind of approach to it in the public service, and that there would be flexibility in the hands of the commission to make recommendations to the Minister. Once there is that kind of approach, it allows for you to attract people of competence. By placing it into a kind of situation where salaries are determined, in which there is a prorated approach, if the Permanent Secretary gets this, then he cannot get higher than that, or the Minister.

Therefore, you have to put it outside of the purview in order to be able to attract people of competence, because the area that will be regulated, would be such that there will be highly technical, highly competent and highly paid people and they must be able to be matched with competence, salaries and perks. We felt that this gave it the greatest flexibility. It is the approach taken in other jurisdictions.

**Sen. Montano:** I am inclined to agree with the sentiments of the Minister. The Bill in its entirety sets up the RIC as an independent corporation, as a company. Once the board—in this case the commissioners—is appointed, I do not see why it is necessary for anybody anywhere to interfere with the salaries that are appointed after. Why do the commissioners have to refer to the Minister at all, or, in fact, to anybody? I do not see the point in that. If we are going to say, as the Minister himself proposed, that the commission be independent and free from political interference and be allowed to get on with it, what is outside there, as is very well-known, are certain standards in the industry for the compensation of certain key executives and there are experts in that business who know what kind of packages should be offered and so forth and, if anybody, they are the persons who should be recommending to the commissioners what kind of compensation would attract the right kind of personnel.

It seems to me that once this thing is set up as an independent legal person, that the authorities really have no business interfering with it any further. I do not know why we are going back to the Minister again and again. You see, it relates

back to my sentiments dealing with paragraph 5. I do not feel that the Minister or the Government should be interfering in it any further at all. I do not want to make a political issue; I do not want to make a debate, but you are running the risk of creating political favours to certain persons possibly. You are setting yourself up for that kind of target, so why not simply leave it to the business of the commissioners. If these are going to be professionals in their own right and persons of integrity and honour, let them do their own job.

**Mr. Singh:** What is the role of the Minister?

“The Commission may appoint on such terms and conditions as it thinks fit and subject to maximum limit of remuneration, as the Minister may determine.”

Maximum limit of remuneration, so there must be regard for it. It is the recommendation coming. So, it is only the broad sectoral policy of determining the compensation package—a maximum limit. Somebody has to be responsible. I would tell you right now in various sectors of the utilities, telecommunications and otherwise, this is what applies, there is a maximum limit. If a bench-marking is done of all the people in the utilities, that is the way it operates and it operates well, because it allows to ensure that it does not happen as in other companies, where we see matters before the court. People pay themselves and there is no question of responsibility, so that we are comfortable with clause 18 as is and we are not supporting.

**Madam Chairman:** You are talking about clause 15.

**Mr. Singh:** No. But, it goes together with the whole issue of where power resides in terms of determining the salary maximum limit. Clause 18 speaks of that. What it is seeking to do is change clause 15 and, effectively, change clause 18.

**Sen. Shabazz:** Madam Chairman, if the commission will determine to the maximum limit, there seems to be something when you say the commission could determine to the maximum limit and we understand that, but to come back and say “as the Minister may determine”, that seems to have a double effect or connotation. I would like the Minister to clear that up. If the commission could give the maximum limit, we agree with that. Why does it have to return to “as the Minister may determine”. Could he change that maximum limit? Could he determine otherwise? Why does it have to return to “as the Minister may determine”? What is the position here?

**Mr. Singh:** Governance requires a certain consistency in the approach and, therefore, when broad sectoral policy decisions are made, none of the agencies under one's jurisdiction can be allowed to go off on a frolic of its own. So, subject to the recommendations of the commission, "the maximum limit". He would not determine anything else. It is the maximum limit. He would say, "Okay, this is the budgetary consideration." That is the kind of thing. It is the "maximum limit" that we have. It is done right now. I do not see any problem. It is under the PUC right now.

**Sen. Shabazz:** It is not a good answer, but you have answered.

*Question put and negated.*

*Clause 15 ordered to stand part of the Bill.*

*Clause 14 recommitted.*

*Question again proposed, That clause 14, as amended, stand part of the Bill.*

**Mr. Singh:** I would like to go back to clause 14 to move the following amendment at the end of that:

Where it reads "in section 8(3)", please add "except that of death".

**3.00 p.m.**

**Madam Chairman:** We are going back to clause 14, which will now read:

"No Commissioner or former Commissioner shall accept employment or enter into a contract of service with a service provider until the expiry of two years from the termination of his employment for any of the reasons referred to in section 8(3) except that of death."

**Mr. Singh:** When you look at 8(3), it speaks of death.

**Madam Chairman:** This one says that he cannot accept employment for any reason other than death. I have no prejudices against people working after they are dead. [*Laughter*]

**Mr. Singh:** Apparently that is the drafting approach.

**Madam Chairman:** Do you want to put those words in?

**Mr. Singh:** Yes.

**Madam Chairman:** Okay.

**Sen. Dr. St. Cyr:** Madam Chairman, it does not seem to make sense.

**Mr. Singh:** Madam Chairman, perhaps we could come back to that.

**Madam Chairman:** Okay, we will come back to that.

**Sen. Daly:** May I suggest we just put, “for any of the reasons excluding death referred to in section 8(3)”. What we are trying to do is exclude the reason, not the employment—“for any other reasons excluding death referred to in section 8(3)”. We are trying to create an exception in relation to the reasons, not the employment.

**Madam Chairman:** Thank you, Sen. Daly. Can I just read this again? The question is that clause 14 be amended to read as follows:

“No Commissioner or former Commissioner shall accept employment or enter into a contract of service with a service provider until the expiry of two years from the termination of his appointment for any other reasons excluding death referred to in section 8(3).”

*Clause 14, as amended, again ordered to stand part of the Bill.*

**Madam Chairman:** I am going to suggest to make the work of the committee a bit quicker, that we would just take it in blocks and then move to where we have amendments. We do not have another amendment until clause 18.

*Clauses 16 and 17 ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed, That clause 18 stand part of the Bill.*

**Madam Chairman:** We have an amendment moved by Sen. Mohammed.

**Sen. Mohammed:** Madam Chairman, I beg to move that clause 18 be amended as follows:

“Lines two and three—delete the words “and subject to such maximum limit of remuneration as the Minister may determine”.

Madam Chairman, for very much similar reasons to what were given just now in relation to the other clause where the Minister determines the maximum salary, we feel that here again, the Minister will be setting maximum salaries and that power should be deleted. I need some clarification in terms of the staffing arrangements. Perhaps the hon. Minister can assist and tell us whether they would be public servants. Would they?

**Mr. Singh:** What transpires is that this is going to be an independent institution and there will be a series of jobs existing by itself. So it falls outside of the purview of the public service so the Salaries Review Commission does not apply and there would be persons with tenure or contract as the case might be, as they are currently contractually obligated.

**Sen. Mohammed:** Contract people. We are just asking to circumscribe the Minister's power again and to remove it to determine the maximum salary. Let the commission determine that.

**Mr. Singh:** We have already outlined our position in this matter, that this is only a check. It is not meant to be an inclusive approach. It is merely meant to be a check in accordance with broad policy.

**Sen. Mohammed:** With all due respect to the hon. Minister, we believe that it might well turn out to be a blank cheque.

**Mr. Singh:** That is a matter for the Opposition, really.

**Sen. Montano:** One of the problems I see with these clauses here is that you are already running the risk of political interference in that you know there are situations that arise from time to time. Unfortunate as they may be, they do arise where particular individuals might incur the wrath of any particular administration and when salaries come around for review and so forth. Then you are giving the authority to the political administration to put a cap on any specific individual salary in order to frustrate his tenure, progress or hiring.

The whole point of this business being set up as an independent company and running on its own, was really to try to get away from all that kind of interference. It seems that what we are doing is not really accomplishing the broad objectives at all because we are leaving the doors wide open for political interference. I am not necessarily suggesting that this Minister has any intentions of doing anything of the kind. The point of the matter is that we want to set up legislation that is going to be clearly and fairly followed by successive administrations all the time.

Until now, the Minister has not really made a case as to why this is necessary other than saying it is their broad policy. I see too many difficulties with it. I see no particular reason why the company cannot be left to its own devices. Every other state-owned enterprise and every other company in the private sector is left to its own devices and there must be corporate accountability in the usual manner. That



is, the directors—in this case the commissioners—are accountable to the shareholders, the owner of the company, the management, in the use of its resources as well as to the overall functioning of what they are actually setting out to do. We are talking here about corporate governance and the responsibilities involved. I still cannot see any particular cases as to why we should allow the state to interfere in this. The Minister has made a case and said that the Salaries Review Commission should not be involved, that it should be independent and so forth. All right, I understand the reasons for that but I see absolutely no reason for any other form of interference.

**Madam Chairman:** Anyone else to comment on this?

**Mr. Singh:** I merely want to reiterate what I said and indicate that this is a situation where the Minister is merely setting the maximum remuneration. It exists at the margin of the maximum and it is a necessary check and balance for the necessary implementation of broad government policy for good governance. The Minister is not going to get involved in the individual situation.

**Madam Chairman:** Before the word “employees” in line 3 there should be “such”. It has to be such: “The Commission may appoint on such terms and conditions as it thinks fit...” The word “employees” cannot just be floating around anywhere.

**Mr. Singh:** Okay it is accepted.

*Question on amendment [Sen. Mohammed] put and negatived.*

*Clause 18 ordered to stand part of the Bill.*

*Clauses 19 to 21 ordered to stand part of the Bill.*

*Clause 22.*

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

**Madam Chairman:** There is an amendment to clause 22(1) which has been submitted by Sen. Nafeesa Mohammed.

**Sen. Mohammed:** Madam Chairman, I beg to move that clause 22 be amended as follows:

“In subclause (1), lines two and three, delete the words “and subject to such maximum limits of remuneration as the Minister may determine”.

Madam Chairman, given the inflexible attitude of the Minister, I really have to wonder now about the motions we are going through here. *[Laughter]* Clause 22 takes it even a step further from all that we have been discussing. Here the Minister is determining salaries of the Executive Director and all the other directors. He is determining the salaries of all the staff and now he is going to be fixing the maximum limit for persons to perform specific tasks that the commission considers necessary. I think just now the Minister might consider being hired by the commission. I have to wonder. This really is excessive powers for the Minister. We are talking about reducing political interference and having an independent commission and here the Minister is controlling every single thing from top to bottom, captain to cook. It is an abuse of ministerial powers.

**3.15 p.m.**

**Sen. Daly:** I want to congratulate the Government on clause 22. I think it is a perfect specimen of an anti-Soodhoo clause and it ought to be congratulated. It would prevent the commission from “Soodhooising” its operations. I think it is a very good clause and the Government should be congratulated for not practising “Soodhoonomy”. *[Laughter]*

**Sen. Shabazz:** Madam Chairman, seeing that you have taken the point with the Soodhoo issue, it is because it reached to the Minister why it remained as it was. Everything went into the hands of the Minister and that is what we are talking about, and that is why we do not want it in the hands of the Minister.

**Mr. Singh:** Madam Chairman, we are dealing with a broad principle of checks and balances in the issue of regulatory governance.

The Minister is setting the maximum limit. Clause 22 provides for you to hire people for specific tasks meaning consultants for various tasks, therefore, they are short-term or medium-term contract appointments. There must be some checks and balances in the process, otherwise people are going to abuse power and, therefore, from a policy perspective, it is appropriate that the Minister be the person determining on a broad level the maximum, and we are very comfortable with this position.

*Question on amendment [Sen. Mohammed] put and negatived.*

**Mr. Singh:** Madam Chairman, I beg to move that clause 22(1) be amended as follows:  
“The Commission may employ on such terms and conditions as it thinks fit persons to perform specific tasks that the Commission considers necessary for the due performance of its functions under this Act.”

*Question put and agreed to.*

*Clause 22, as amended, ordered to stand part of the Bill.*

*Clause 23 ordered to stand part of the Bill.*

*Clause 24.*

*Question proposed, That clause 24 stand part of the Bill.*

**Madam Chairman:** There are amendments by Sen. Mohammed, Sen. Yuille-Williams and the Minister.

**Sen. Mohammed:** Madam Chairman, during the course of the debate the question was raised about these consumer service committees, and in the Bill itself, it provides for the Minister appointing these committees. Once again in the interest of this we feel that the commission should be the authority to appoint these committees and more than that, it should appoint such consumer committees in relation to the number of service providers there are. That was a concern which was raised—that the legislation was vague. This is just an attempt to link or limit it to the number of service providers which are provided for in the Schedule to the Bill, and that it would be the commission making the appointment of these committees.

**Mr. Singh:** As I indicated in the debate, a broad spectrum of people would be appointed through the ministerial intervention, and further, the one we follow where it works is the Minister who appoints the consumer service committees, therefore, we feel for the commission to appoint the consumer service committees to advise the commission really is a Caesar unto Caesar, therefore, the leverage of the consumer service committees appointed by the Minister would be greater than if it is merely a creation of the commission.

**Sen. Daly:** This amendment really needs some serious consideration. I take the Minister's point of Caesar to Caesar and I wonder whether the proposer may not consider amending the amendment so that it says "the Minister may after consultation with the consumer interest groups appoint." I think it is an amendment which is worthy of consideration. My problem with this change in policy, as I indicated, is we are now taking the business of "watchdogging" these commissions out of the openness of the judicial process and into the privacy of the commission's committee rooms.

It is a very good amendment because it means that the persons who, historically have been the objectors to rate increases would get a look into the process here. I take the Minister's point that the commission should not appoint the people to interact with it, but subject to that, I think it is an amendment which requires very careful consideration.

Nowhere in this Bill is there any room for groups of objectors who have, until now, served us very well such as the Housewives Association. All these different groups are completely excluded from this process and, therefore, this is a good amendment insofar as it brings lay persons into the process after consultation with their groups. I accept that it may not be best that the commission does it, but I wonder whether the Minister would not consider this amendment providing it is he who does the appointing of the committees after consultation with the consumer interest groups.

**Mr. Singh:** I would take that into consideration, “after consultation with the consumer interest groups” rather than the commission. I could live with that.

**Sen. Daly:** If you take out the word “commission” and say:

“The Minister may, after consultation with consumer interest groups appoint in relation to the service providers listed in the First Schedule such service committees as the Minister thinks fit.”

You bring in the lay element and you also bring in the useful element which is what Sen. Mohammed is contending for—of having little interest groups looking after each type of utility.

**Sen. Dr. Mc Kenzie:** Madam Chairman, I agree with the amendment to a point. I think the consumer interest groups should be the ones recommending to the Minister or the commission. Sometimes the term “consultation” has a different impact according to what you want it for.

**Mr. Singh:** The objective really is to gain a measure of broad-based independent thinking to bear upon the affairs and the deliberations of the commission. At the start-up stage there is not sufficient consumer interest groups out there for the recommendation phase to come into being and what you would have is a skewed approach to the recommendation.

I think that Sen. Daly's recommendation of consultation with consumer interest groups would mean that there would be a broad-based approach because it

achieves the policy position of getting a broad-based spectrum of people into the process, and I recommend that. Eventually, as you begin through the Consumer Protection Act building consumer interest groups, through competition policy, as the market evolves then we could move into that stage of the recommendation.

**Madam Chairman:** You can comment on Sen Daly's second point which is also Sen. N. Mohammed's point about the service providers listed in the First Schedule so that each service provider would have a group tied to it.

**Mr. Singh:** At this stage there is need for a greater degree of flexibility in the consumer service groups because it is envisaged—right now there is WASA, T&TEC, PowerGen, TSTT, part of post and eventually you may have part of public transport or port and down the road you may have gas. One really wants to have flexibility to determine. So there are standing committees that may be multi-sectoral or alternatively sectoral, but it is too early to delimit them at this stage.

Let us face it, this legislation is going to evolve. As the commission establishes its independence it would develop a constituency in the larger population, but at this stage to tie it down according to the Schedule makes it kind of rigid.

**Sen. Daly:** If you get a new utility, would you not have to amend the Schedule? It does not really tie it down. If there is a new utility it goes into the Schedule so as the Schedule expands the number of committees would expand.

**Sen. Yuille-Williams:** Madam Chairman, when I read the presentation I recognized this difficulty. As I said before, in the United Kingdom there would be the committee servicing the industries. Seeing that there is one Bill to cover all the industries, there must be some point at which we could see the individual industry, that is why I think it is important to have committees attached to industries.

What we are doing is very creative. I understand the difficulty and at some point we must see T&TEC, WASA, and the others coming through. I am supporting the committee attached to the industry. I do not know how broad-based it could get.

### **3.30 p.m.**

Something must be done where one can just have one or two committees being broad-based, as the Minister was talking about. I am afraid of this being too broad-based and one would lose that special focus.

**Mr. Singh:** We will move an amendment at the appropriate stage, 24(c), where we will make it an uneven number. If we are going to take this approach, it is going to be pretty large in terms of doing it industry by industry.

**Sen. Yuille-Williams:** It does not have to be that the committee is very large.

**Mr. Singh:** If we are going to have industry by industry specific committees, then there will be the necessity to lower the number of members in them so, therefore, one does not get into running up the costs unnecessarily. I could work with that.

**Sen. Daly:** Amend 24(2)(c) to make it three members.

**Mr. Singh:** I think it will have to be four, because there will be one from Tobago, a Chairman—

**Sen. Daly:** It should have one from Tobago already.

**Mr. Singh:** Okay. It will be three.

**Sen. Mohammed:** Perhaps the other amendment which was referred to by Sen. Yuille-Williams can be dealt with in terms of the functioning of the committee.

**Madam Chairman:** Obviously, the committee needs to discuss this a little more. Why do we not take a five minute break and have a chance to see if we can hammer out some of the wording, or we could leave this one aside and come back to it, because it obviously needs a bit of rewording.

**Sen. Daly:** The ecumenical proposal is that 24(1) be accepted as proposed by Sen. Mohammed, except we put “the Minister” instead of “the Commission”; clause 24(2)(c) be amended to make it three members, and then add a subclause (5) to clause 24 in terms of Sen. Yuille-Williams' amendment. So, that would be all the amendments to 24 that could be looked at while we move on to something else.

**Madam Chairman:** Could I suggest that we ask the draftspeople to look at this and we would come back to it?

**Mr. Singh:** This is the primary legislation and there will be subordinate regulations determining all these things, and we feel that to get involved to advise the commission in respect of rates and tariffs and standards of service and general complaints, these are things they will be getting involved in.

**Sen. Yuille-Williams:** Hon. Minister, I am not a good draftsman. I know you have support. Actually, you have committees here but we do not know what they are supposed to do. I do not think we should just leave it out without putting

some function. One cannot just establish committees without saying what they are about in some way. I had to put something because I wanted you to state the functions of the Consumer Service Committee. I do not think you should leave it vague. It must be established for some particular purpose.

**Mr. Singh:** In my contribution in the debate, I said that the main functions of the CSC would be to advise the commission on matters relating to time, quality level and quality of service provided by service providers; to assist in ensuring that service providers implement adequate complaint procedures for the speedy and appropriate resolution of complaints made by consumers; participate, on request, in proceedings of the commission on the terms and conditions of licences or when the basis of tariffs as charged by a service provider are being considered; and attend to such matters as may be assigned to it by the commission from time to time.

**Sen. Yuille-Williams:** So we are going to include those? You said that in the debate, but I am wondering if you are not going to include that in the functions here.

**Mr. Singh:** We will get them to work on it and see how best we can fashion an approach.

**Madam Chairman:** Thank you. I think we all understand what we are saying, and we will let the draftspeople work on it and come back to that

*Clause 24 deferred.*

*Clause 25*

*Question proposed,* That clause 25 stand part of the Bill.

**Madam Chairman:** There is an amendment proposed to clause 25 by Sen. Mohammed as follows:

25

Delete the clause.

**Sen. Mohammed:** If we agree on the number of committees.

**Madam Chairman:** Sen. Mohammed, this is the one that says, "committees other than those referred to in section 24".

**Sen. Yuille-Williams:** I think we just could not tell why we had the other committees.

**Mr. Singh:** These committees are really for good governance. One would have *ad hoc* committees, and one must give the commission that kind of flexibility

to appoint *ad hoc* committees for proper governance. There may be a human resource committee, an *ad hoc* committee on some specific task. It must have that power to appoint committees. One cannot seek to circumscribe it only to consumer service committees.

**Sen. Mohammed:** It is really clause 25(4) that we were concerned about, that the commission is not bound by any report. We were not clear as to what these other committees would be. If that is the case, in the circumstances, we can withdraw.

**Sen. Yuille-Williams:** I am wondering whether these are Standing Committees?

**Mr. Singh:** *Ad hoc.* All organizations need that ability.

**Sen. Yuille-Williams:** One would notice that these are not voluntary committees. These are committees that are coming in as the Minister may decide. I think we need to clarify it a little more. I am hearing him say *ad hoc*, but I do not know whether or not that is quite clear to us because there is some expense. I am not sure exactly how these committees will function.

**Sen. Ayoung-Chee:** Madam Chairman, I think there would be need to point out that there may be a particular problem with electricity and the commission may need to have a special committee to look into and report on any disaster relating to service provided. I am comfortable with that discretion. I have spent some time in the Public Utilities Commission myself so, from my own experience, I think there is need for such a provision.

We cannot detail every function to fit every circumstance. It is a very dynamic situation when one is regulating certain aspects of service providers. I think it is very difficult to try to forecast every particular situation in which a committee may have to be appointed.

**Mr. Singh:** I endorse the sentiments of Sen. Ayoung-Chee. One has to keep in mind that there has to be flexibility and response in this dynamic situation. We cannot preclude that. It calls for good governance.

**Madam Chairman:** Sen. Mohammed just said that she would withdraw that.

*Amendment withdrawn.*

*Clause 25 ordered to stand part of the Bill.*



*Clauses 26 to 29 ordered to stand part of the Bill.*

*Clause 30.*

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

**Mr. Singh:** I beg to amend clause 30(1) as follows:

Delete the clause and substitute with:

“Subject to the approval of the Minister in subsections 2 and 3, the Commission may impose upon service providers a cess on rates and charges collected by the service providers”.

This is a cleaner draft so as to clear up any confusion, because out of the debate, Members felt that it would be an imposition on the consumers. This is to clarify that situation.

*Question put and agreed to.*

**Madam Chairman:** If we go down to the next page, there is a proposal for the amendment of subclause 3(b), that the words “that purpose” at the end of the third line be deleted and the words, “the purpose referred to in paragraph (a)” be substituted.

*Question put and agreed to.*

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

*Clauses 31 to 33 ordered to stand part of the Bill.*

*Clause 34.*

*Question proposed, That clause 34 stand part of the Bill.*

**Sen. Dr. Mc Kenzie:** I would like to ask the hon. Minister in clause 34(3), whether he meant definitely June 30, or if he meant six months after the end of the financial year. I am saying this in view of the fact that June 30 would have been six months after the old financial year. Now that we have changed the financial year, I am wondering if we should stipulate June 30 or six months after the end of the previous financial year. It is just a matter of clarification.

**Mr. Singh:** I am advised that this can remain as is, and the Government's financial year will not impact upon it.

**Sen. Montano:** Madam Chairman, I raised that matter when I made my contribution. As I understand, the financial year is the financial year dictated by section 3 of the Constitution which, of course, we just changed to September 30. What we are now, in fact, doing is giving the commission nine months to present its accounts. I think in terms of the practice of the industry, that would be regarded as financial indiscipline. A little bit further down, clause 36 reads;

“The financial year of the Commission shall be as defined by section 3 of the Constitution as amended by...”

**Mr. Singh:** I think there is great merit in that suggestion and the technical people are looking at it.

**Madam Chairman:** We can come back then to clause 34.

*Clause 34 deferred.*

*Clause 35 ordered to stand part of the Bill.*

*Clause 36.*

*Question proposed,* That clause 36 stand part of the Bill.

**Madam Chairman:** We can come back to clause 36.

**3.45 p.m.**

*Clause 37 ordered to stand part of the Bill.*

*Clause 38.*

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

**Madam Chairman:** There are amendments to clause 38.

**Sen Mohammed:** I beg to amend clause 38 as follows:

(i) Delete sub clause (1) and substitute the following:-

"The Commission should recommend that licences be issued by the President acting on the recommendation of the Commission."

(ii) Delete subclauses (2) and (3).

Madam Chairman, I expect the hon. Minister is going to give me the same reply. This area is one which we have very serious concerns about. Under the

legislation, here it is, it is the Minister who may grant a licence. We are asking, in the interest of having an independent commission and to avoid that kind of interference and so forth, that that power be circumscribed and it be done by having the commission recommending that licences be issued by the President acting on the recommendations of the commission.

**Mr. Singh:** I think the hon. Senator was right in the sense that I will challenge what she is submitting, for two reasons. One, on the basis of world experience in this sector, having regard to its importance, it is generally the Minister, with Cabinet's support, who makes the decision with respect to the licence. The second issue is that your amendment will bring the President into bacchanal. Because every time one has a cancellation of a licence or a variation of a licence, you want the people who are so affected to take the President to court.

**Sen. Mohammed:** You are using the President conveniently. The hon. Minister is interpreting the President's Chair very conveniently. Earlier he indicated that the President referred to—in effect, it means the Cabinet. The difference here with this amendment—

**Mr. Singh:** Look at that sequence of your action. The commission should recommend that a licence be issued by the President acting on the recommendation of the commission.

**Sen. Mohammed:** And not the Minister.

**Mr. Singh:** So you are bringing the President into bacchanal.

**Sen. Mohammed:** Well, the commission may have to go through the Minister, but the fact is that it will be based on the recommendation of the commission, not a *carte blanche* licence to the Minister to grant these licences. Everything here is just the Minister.

**Mr. Singh:** Let me tell you, the regime, how it is set up, there are certain—

**Sen. Kuei Tung:** Let me help the Minister. I will just give an example. This is no different from the Minister of Finance approving a licence for a bank to have a branch. I do not do it. It goes through the Central Bank, they make an application, the Central Bank does the analysis and makes a recommendation to me. I do not go to Cabinet or the President or anybody. So it is no different. The question of a licence has already been articulated and distilled by someone other than the Minister. I think that you are thinking that the Minister sits in his office and just issues licences.

**Sen. Mohammed:** In this legislation we have absolutely no guidelines in terms of these licences, what they are going to look like, what criteria, what you are going to use to make up these licences and it is a *carte blanche* licence to the Minister, he will be granting these licences, and he may vary them and what have you. We are saying we want that power circumscribed a bit, let it be the commission making the recommendation, where you have the specialist attention going—

**Mr. Singh:** The problem I have with the hon. Senator's suggestion is that it really flies in the face of the provisions of the Bill. There are clear delineations of functions of the commission as regulator, and that of the Minister as utilizing licensing as an instrument. It is clear. It will be prescribed in accordance with the regulations.

**Sen. Mohammed:** What regulations?

**Mr. Singh:** So hold on.

**Sen. Dr. St. Cyr:** Madam Chairman, I was wondering whether it is not desirable that the responsibility really falls on the Minister to account for whatever happens. So I will be inclined to leave Minister rather than go with the amendment.

**Madam Chairman:** Thank you, Sen. Dr. St. Cyr. Any other comments?

**Sen. Mohammed:** The hon. Minister talked about regulations. When one looks at this draft Bill, there is absolutely nothing in terms of these licences that can assist us and all we are seeking for is some circumscribing of this process in terms of the powers of the Minister, because at every single stage we are seeing that ultimately it is the Minister who will have the free reign in determining these matters.

**Mr. Singh:** I just want to clarify this position. If you look at clause 40, it prescribes that all the contents of a licence—and this is the primary legislation that is evolving, so I cannot understand the hon. Senator's position with respect to the content of the licence. It is prescribed for.

**Sen. Mohammed:** We have absolutely no idea. Do you have, perhaps, a precedent of a licence that we can look at? Will there be regulations where at the end of the day you can see some more flesh on them?

**Mr. Singh:** The fact of the matter is that, this is the primary legislation, you are going to have subordinate legislation, you are going to have licences, you are

going to have the various other instruments, it is a sequential process and if you do not understand the sequence of how the thing is going to evolve, then you are going to have problems.

**Sen. Mohammed:** Where is the transparency with the actual licences?

**Madam Chairman:** Anybody else wants to comment on this particular issue?

*Question, on amendment, [Sen. N. Mohammed] put and negatived.*

**Madam Chairman:** We also have an amendment by the Minister.

**Mr. Singh:** Madam Chairman, I beg to move that clause 38 be amended as follows:

- A. In subclause (2), delete the words "for the exclusive provision of a service unless he consults the Commission", and substitute the words "unless he receives the advice of the Commission".
- B. In subclause (3) insert after the words "this Act", the words "or any provision thereof".

*Question, on amendment, put and agreed to.*

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

*Clause 39*

*Question proposed, That clause 39 stand part of the Bill.*

**Madam Chairman:** There are two amendments to clause 39.

**Mr. Singh:** Madam Chairman, I beg to move that clause 39 be amended as follows:

In subclause (1), insert after the words "section 38(1)(b)", the words "including an application for the exclusive provision of a service".

*Question, on amendment, put and agreed to.*

**Madam Chairman:** Sen. Yuille-Williams has also submitted an amendment.

**Sen. Yuille-Williams:** Madam Chairman, I beg to move that clause 39(3) be amended as follows:

- A. Delete the words "any objections to the application may be submitted to the Commission" in lines 3 and 4 and insert the words "the public should be allowed to submit comments on the application to the Commission" between the words "which" and "and".

Madam Chairman, I hope the Minister will understand what I am trying to get here. The objection, to me, is a pretty narrow word in terms of the response being "yes" or "no", "I object" or "I do not object". I am thinking in terms of all that is necessary and we are going to look later on in another amendment I made; it might be necessary for us. In some cases we may not wish to outright reject an application, as the case may be, but we may wish to comment on some aspect of the application. I feel that you are narrowing things down to either "I object" or "I do not object" to the application. That is what I am thinking about. I am thinking in terms that the comments may mean that you may wish to make some statement on some aspect of the application, and the word "objection", therefore, narrows and constrains the members of the public.

**4.00 p.m.**

**Madam Chairman:** Does anybody else wish to comment?

**Mr. Singh:** I am advised that we can say "comment or any objection".

**Sen. Yuille-Williams:** Something else should be in there so that—

**Mr. Singh:** Any comment on?

**Sen. Yuille-Williams:** Yes, so that it—

**Mr. Singh:** So you can expand on it to incorporate your—

**Sen. Yuille-Williams:** So that would take in the fact that you need not only give objections.

**Madam Chairman:** Let me just get that straight. So we are now saying that it should be amended to read:

"...within which any comment or objection to the application..."

**Mr. Singh:** "...comments on..."

**Madam Chairman:** "...comments on or objection to the application may be submitted to the Commission..." Sen. Yuille-Williams are you happy with that?

**Sen. Yuille-Williams:** Yes.

**Madam Chairman:** So the proposed amendment reads:

"A notice published pursuant to subsection (2) shall state the time which shall not be less than twenty-eight days from the date of publication of the notice, within which any comments on or objection to the application may be

submitted to the Commission and the Commission shall consider the objection prior to making its recommendations to the Minister.”

*Question put and agreed to.*

**Madam Chairman:** Sen. Yuille-Williams also has another amendment suggesting that we delete subclause (4) and insert a new subclause (4) to read:

“A notice referred to in (3) should provide pertinent information which would enable the public to make meaningful comments”.

**Sen. Yuille-Williams:** Madam Chairman, before we even look at the original subclause (4) I intend to insert a new subclause (4). I am doing this in the spirit of what I think we are going to look at later on where even the Minister’s amendment to clause 42 where I notice that he says:

“...a notice of his intention to so vary and supply reasons for the proposed variation;”

What I am trying to get there is that in that publication if we are to make comments or object we must get some information. For example, I remember when Sen. Prof. Spence spoke about InnCogen, if you had just made prior notice that InnCogen had applied for a licence—and I did not get sufficient information about InCogen’s background, the capital and all sorts of pertinent information—I could not make comments or objection. So, I am just saying that you should include it in that notice.

**Mr. Singh:** When you look at the whole Bill, you will see that clause 47, I think, allows you to access any information you desire for a prescribed fee.

**Sen. Yuille-Williams:** For a prescribed fee, but if you are putting out a notice for public comment, should you not put the information in that notice?

**Mr. Singh:** No, no, no. You are going to get bogged down in a process that is now going to parallel a different process.

**Sen. Yuille-Williams:** No, no.

**Mr. Singh:** That is not the intent of the legislation. You require information and that is what you desire, and the commission by virtue of the law allows you to access that information that it has at its disposal.

**Sen. Yuille-Williams:** For a prescribed fee?

**Mr. Singh:** It is in the Bill.

**Sen. Yuille-Williams:** Can I ask the hon. Minister what the notice will contain as it stands here? Just give me an idea. We have a new service provider coming in and you are going to put out a notice and I am supposed to make comments or objections. What will that notice contain so I can make meaningful comment? That is what I am asking. What are you putting in the notice?

**Mr. Singh:** The Government will be making a publication saying that this is what is happening and that, therefore, now you have the ability to access the information. In a notice you will not be able to print all the information one would desire. It is as if you are placing an ad in which you could say that you can collect further documentation at so and so.

**Sen. Yuille-Williams:** Madam Chairman, do you really think that you are going to get public comment in that form? Just tell me because I am not quite clear how the process will work. That is why I am asking these questions.

**Mr. Singh:** If you put out a notice, advising the public that applications can be made and those who are interested can acquire the relevant information from the RIC. *[Interruption]* No, there is a form at the RIC. As you can see, there is a form.

**Sen. Mohammed:** Therefore, we would be able to access it from—This form is just the parameters that would guide in terms of the negotiations of the—

**Mr. Singh:** And the law, as the Bill envisages, allows you to scrutinize licence. Not as you did with PowerGen.

**Sen. Daly:** And what you did with Severn Trent.

**Mr. Singh:** I laid it in this Senate.

**Sen. Yuille-Williams:** Madam Chairman, I am still not quite clear. If I am a member of the public—I am being honest—and you have put a notice out there for the service provider and you are asking me to make comments or objections, are you telling me that I would have to apply and pay a fee to get the information then make the comments? Is that what I am supposed to do as a member of the public? I am trying to find out.

**Sen. Seapaul:** Madam Chairman, I think the word “pertinent” there is being overlooked.

“A notice referred to in (3) should provide pertinent information...”

It is this “pertinent information” that would be in the notice that would enable the public to make meaningful comments. It is “pertinent information” that is going to be there; whatever aspect of information needs to be commented upon.



**Sen. Yuille-Williams:** Madam Chairman, I want to say thanks, but I am just thinking that the notice should have information that the general public could comment upon. I am no technical person. If you really want a comment from the public do not tell them they have to pay a prescribed fee just to get that information. I just want to say InnCogen has applied to be a service provider for electricity “full stop”; you can come to the office, pay a prescribed fee and get further information and make comments. I do not think that is fair.

**Mr. Singh:** What kind of pertinent information are you seeking to have placed in this notice?

**Sen. Yuille-Williams:** That is what I am asking.

**Mr. Singh:** No, I am telling you that a notice by its very nature is to alert and tell people that something is happening and where they can access information if they so desire, and that is pertinent information. Otherwise we would have to print a supplement for everybody and that has a cost.

**Sen. Yuille-Williams:** Whereas I would stop at this point, I do not think you will get any comments from the general public. I am just saying that the public will not be able to comment on it. There is something wrong with the way in which it is stated, but if the Minister feels that this is how it should be, then I would just refrain from going further.

**Mr. Singh:** Time will be our judge.

*Question put and negatived.*

*Clause 39(4), as amended, ordered to stand part of the Bill.*

*Clause 40.*

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

**Madam Chairman:** In the list of amendments circulated by the Minister, it is proposed that clause 40 be amended as follows:

“In subclause (1)—

- (a) renumber paragraph (b)(i) and (iv) as (i)(a)(vii) and (viii), respectively;
- (b) renumber paragraphs (ii), (iii), (v), (vi) and (vii) as (i), (ii), (iii) and (iv) and (v), respectively.”

**4.10 p.m.**

**Mr. Singh:** This is consequential as a result of the acceptance of the recommendation of Sen Daly, in that we remove these into the mandatory category. These are consequential amendments in terms of numbering.

**Madam Chairman:** With respect to clause 40, Sen. Daly's recommendations were that we use the word "shall" rather than "may". So this just puts them all into the "shall" category.

*Question put and agreed to.*

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

*Clause 41 ordered to stand part of the Bill.*

*Clause 42.*

*Question proposed, That clause 42 stand part of the Bill.*

**Mr. Singh:** Madam Chairman, I beg to move that clause 42 be amended as follows:

- (A) In subclause (2)—
  - (a) delete the words 'whether or not variation is provided for as a term of the licence, the Minister' and substitute the words 'The Minister';
  - (b) in paragraph (b), insert after the words 'to vary the licence', the words 'in the public interest'.
- (B) Renumber subclause (4) as subclause (5).
- (C) Insert after subclause (3), the following subclause:
  - “(4) Before the Minister varies a licence pursuant to subsection (2)(b), he shall—
    - (a) cause to be published in the *Gazette* and at least one daily newspaper circulating in Trinidad and Tobago, a notice of his intention to so vary and supply reasons for the proposed variation; and
    - (b) allow a period of twenty-eight days after the date of publication in the *Gazette* during which representation may be made to the Minister in respect of the proposed variation.’”

Madam Chairman, 42(2)(A) is as a result of the previous provision 40(b)(4) becoming mandatory, so therefore, there is the necessary consequential amendment to this provision.

Madam Chairman, 42(4)(C) is to allow the service provider to make representation. It gives a certain degree of notice to the service provider where the Minister is varying the licence.

**Sen. Montano:** Madam Chairman, in the new subclause (4), I think I understand what the Minister is trying to do here. My understanding of it is that the reason that the Minister may want to vary a licence is when one looks at subclause (3), in effect, this would work so as to subsidize a rate or something of the sort. If you are going to vary a rate by reducing it, you then have to compensate the licensee for any probable changes in the licensee's financial position. Of course, it must have an effect on his financial position. In fact, what you are doing is providing a subsidy.

**Mr. Singh:** You have lost me, Senator.

**Sen. Montano:** Okay, your subclause (4) works with subclause (3) or the original subclause (3) which says that:

“A variation made pursuant to subsection (2)(b) is of no effect until the Government fully compensates the licensee for any actual or probable changes in the licensee's financial position...”

In other words, in this scenario that you are setting up, when you read the two things together, if you set out to reduce the rates contained in a licence, you are varying the terms of the licence. According to your proposed subclause (4), you want to publish it and allow for 28 days and so forth, but in subclause (3) you also have to compensate for any losses that the service provider may incur, in fact, will incur.

**Mr. Singh:** Any variation requires a certain period of notice to allow for proper representation to be made.

**Sen. Montano:** I do not have a problem with that. The problem that I see here is that if you are dealing with rates, if it is that the Minister decides that the rate is too high and decides to reduce it, then it means that the Government—and that situation is fully anticipated in subclause (3)—must fully compensate the licensee. The situation with that set-up is this, if you have been granted a licence for five years and, let us say, at the end of year one you change the rates so that there is a

financial loss or reduction in the anticipated income for the next four years, then the Government, according to subclause (3) has to fully compensate the licensee over the remaining four years of the licence period, immediately.

In my contribution I said I considered that to be a rather extraordinary state of affairs because you are creating a major contingent liability on the public purse. While I have difficulty with that, I understand the situations that might arise where Government might decide to, effectively, provide a subsidy, because that is what is being done with subclause (3).

I am suggesting that in the proposed subclause (4), if you are going to provide a notice of your intention to vary the licence, including the rate, and one is going to set out the reasons for so doing, I think it is important that the Government also discloses the quantum of the compensation that it must pay, so that the public at large must understand the extent of the subsidy. That is the point I am coming to.

**Mr. Singh:** Let us look at the natural justice situation. You seek to vary a licence, you have to publish notice of that in the *Gazette* and in one daily newspaper, then the service provider would come and say: as a result of your variation of my licence, if it has a financial impact, this is what I have suffered. The Government cannot say that is the situation and publish it right away. It has to go through a certain process, if that is what is going to happen.

**Sen. Montano:** Madam Chairman, I do not care at what point the Government discloses this thing. I think it is absolutely mandatory, maybe if you want to put it into subclause (3): “that the amount of the compensation be disclosed by notice in the *Gazette*.” I do not care where it comes in, but I think it is absolutely imperative that it be included.

**Madam Chairman:** [*Inaudible*] requires variation—

**4.20 p.m.**

**Sen. Montano:** I did not read it that way. I read it as if this were part of the variation process. Because it is falling after subclause (3), I naturally read it as falling after the variation process. If that is not the case, then it should really be subclause (3), and subclause (3) will be subclause (4). That section that deals with compensation should definitely be published in the *Gazette* as to the extent of the compensation that is going to be required—and the full amount of the compensation. It says here, “fully compensates”.

So if there are four years left in the licence, the Government, before the variation can be made effective, must fully compensate; which again, is a bit extraordinary because what that section says, is that the service provider is going to get paid today for losses that he is going to incur over the next four years. That is the way that it works.

**Mr. Singh:** No. Read it clearly—a variation made pursuant, is of no effect until the Government fully compensates.

**Sen. Montano:** That is right.

**Sen. Dr. St. Cyr:** I think that makes it even worse. In other words the Minister cannot vary, except he had money in the bank to pay over; and I am wondering if that does not unnecessarily tie his hands. So that the discussion here is really to look after the welfare of the nation.

**Mr. Singh:** We must keep in mind that one of the pillars of the Bill is the protection, not only of the consumers, but also of the investors. Therefore, you do not want to get into a situation where you can arbitrarily expropriate significant capital investments whimsically and without appropriate compensation.

What is the purpose of this really? It avoids arbitrary and capricious action on the part of any Government in dealing with this matter.

**Sen. Dr. St. Cyr:** Agreed. I think this is good and fair, and perhaps even necessary if the anticipation is that more of the investment capital will come from abroad.

But, what you are saying is, it seems too strong. For instance, it is actual or probable. And one of the questions I did ask there is, how will this be determined? So, what are we really saying, need we say, “no effect until fully?” At least we could drop the word “fully” or we might say “will not take effect until the Government negotiates satisfactorily to the supplier”. But, as it stands, it really seems that we have tied our hands unnecessarily.

**Sen. Daly:** I think it is a terrible clause. I think the Government is crazy to have this. Let me break it down for you—it has nothing to do with expropriation of property. If you expropriate anybody’s property including a foreign investor, he has rights under the due process clause of the Constitution. This is no safeguard against expropriation. If that is the rationale for it, it should not be there.

Secondly, it means in effect that anyone who claims to be affected by a variation of a licence which you have conducted or made in the public good, you are making them preferred creditors in effect, because they are saying that your decision to vary a licence cannot be put into effect, until you fully compensate the licensee. So in effect, they become a preferred creditor; because you have to pay them off before you could carry out Government policy.

This is a typical World Bank kind of clause being pushed down the throat—it is irredeemably third world. If they have told you that this is a safeguard against expropriation, then your duty as Minister keeps you too busy to read the Constitution—there is a protection under section 4(a).

So, what you are doing, is, you are completely tying the Governments' hands, making them preferred creditors of the Government, and this is completely unnecessary. If this is a conditionality of the loan, do not take it—this is a confidence trick, and it makes them preferred creditors of the Government. It is a terrible clause.

**Sen. Dr. Mc Kenzie:** Madam Chairman, from my layman's point of view, it gives the impression also, that an investor can set up his own scheme to cause you to want to vary; and as a consequence he collects up front, he is sure that you are going to vary because of the conditions he sets, and the condition he puts you in.

From my ordinary comprehension of this, I think it is a dangerous set up.

**Sen. Daly:** There is another point. I am not finished. This means—whether the variation amounts to breach of contract or not. Suppose you make a variation of the licence, it does not breach your contractual arrangements with them. They get paid any way. Whoever sold you this, this is hibiscus—I associate this with the fellas in front me, not with you. This is a real hibiscus sweet clause man.

**Mr. Singh:** I think that the comments being made, I would let the technical people look at this again to see how well we can whittle down the effect. We also want to preserve the security for the investor, outside of the system. I take the point about the breach; but we also have to secure investment.

**Madam Chairman:** Any other contributions? Okay, we are once again going to defer amendments to clause 42(4).

*Clause 42 deferred.*

*Clauses 43 to 48 ordered to stand part of the Bill.*

*Clause 49.*

*Question proposed,* That clause 49 stand part of the Bill.

**Madam Chairman:** We have amendments to clause 49 submitted by the Minister:

**Mr. Singh:** Madam Chairman, I beg to move that clause 49 be amended as follows:

A. In Subclause (2)(a)(ii), insert after the words “or formula”—

This is consistent with clause (2)(a)(i)— “existing duly established rate or formula where applicable for the proposed new rate or new formula”.

**Madam Chairman:** This is merely a drafting point.

**Mr. Singh:** B. In subsection (4), delete the words “service provider and with any party it sees as having an interest in the matter” and substitute the words “parties referred to in section 6(2)”.

**4.30 p.m.**

**Madam Chairman:** Minister?

**Mr. Singh:** I am advising a tidying up of the drafting process.

**Madam Chairman:** This is, again, a drafting point. Does anybody wish to address it? If not, I will put the question.

*Question put and agreed to.*

*Clause 49, as amended, ordered to stand part of the Bill.*

**Madam Chairman:** I think that we have all done a long, hard job, this afternoon, of amending and I am going to suggest that we—

**Sen. Yuille-Williams:** Madam Chairman, just about two things in clause 50.

**Madam Chairman:** Okay. Let us just go on. We can hold off the break, for a minute.

*Clause 50.*

*Question proposed,* That clause 50 stand part of the Bill.

**Madam Chairman:** There is an amendment, submitted by Sen. Yuille-Williams to clause 50(2).

**Sen. Yuille-Williams:** Madam Chairman, I beg to move that clause 50(2) be amended by deleting the word “six” in line 3 and inserting the word “three”.

**Mr. Singh:** With respect to the time limit, I am advised that—please, look at clause 49(4), “The commission shall consult with the service provider and with any party it sees as having an interest in the matter, not later than three months after its receipt of the notice referred to in subsection (1).” So that it really requires an additional three months to pull its act together; three months and an additional three months. We have eliminated clause 51, with the whole question of retroactivity.

**Madam Chairman:** That amendment is withdrawn?

**Mr. Singh:** Yes.

**Madam Chairman:** Okay.

*Amendment withdrawn.*

*Question put and agreed to.*

*Clause 50 ordered to stand part of the Bill.*

*Clause 51.*

*Question proposed, That clause 51 stand part of the Bill.*

**Madam Chairman:** Sen. Yuille-Williams also has an amendment to clause 51(2) which was circulated as follows:

Delete the word “six” in line 3, and insert the word “three”.

**Sen. Yuille-Williams:** Well, the Minister said it has been deleted.

**Mr. Singh:** What we have done is to delete it and we have substituted a clause which is now applicable in the Telephone Act; it really is binding.

**Madam Chairman:** Could I just read out, for those people who are leaving—

**Mr. Singh:** Yes. The effect of this, which is drawn from the Telephone Act, is that it binds the commission to make a decision within a six-month period so the question of retroactivity does not arise. It is therefore consistent with clause 49 that will allow for six months and then clause 51 binds it to make the decision within six months. So retroactivity is now out.



**Madam Chairman:** Sen. Yuille-Williams, do I understand that you have withdrawn this amendment?

**Sen. Yuille-Williams:** Yes, Madam Chairman.

*Amendment withdrawn.*

**Madam Chairman:** We have to look at the Minister's amendment. He has suggested that we delete the entire clause 51 and instead insert the following clause, as circulated.

“Rate deemed  
approved

51. If on the expiration of the period for the determination referred to in section 50(2), the Commission has failed to make the determination in accordance with section 50(1), the proposed new rate or formula referred to in section 49(2)(a)(ii) is deemed to be a new rate or formula, as the case may be, determined by the Commission.”

*Question put and agreed to.*

*Clause 51, as amended, ordered to stand part of the Bill.*

*Clauses 52 to 57 ordered to stand part of the Bill.*

*Clause 58.*

*Question proposed, That clause 58 stand part of the Bill.*

**Madam Chairman:** Sen. Daly has withdrawn his amendment to clause 58 which was circulated.

*Question put and agreed to.*

*Clause 58 ordered to stand part of the Bill.*

*Clauses 59 to 66 ordered to stand part of the Bill.*

*Clause 67.*

*Question proposed, That clause 67 stand part of the Bill.*

**Madam Chairman:** We have an amendment to clause 67, by Sen. Yuille-Williams.

**Sen. Yuille-Williams:** Madam Chairman, I beg to move that clause 67(2) be deleted.

Madam Chairman, I raised this in my contribution and still I am not satisfied with the response from the hon. Minister—he did not address it in his closing remarks either—as to why this has become necessary. I was saying that may seem to be a parallel form of accounting; I would believe that the organization would have already had accounting with international format and standards. Here we are asking for or duplicating another form of accounting. If that is the case, I would say that this one should be withdrawn or deleted.

**Mr. Singh:** What you are trying to get is consistency of approach and once you have the commission prescribing by virtual legislation the forms of accounts and records to be kept by service providers then you would not have that kind of different—I am unfamiliar with the accounting approaches, but certainly it is an approach that will allow for consistency and therefore not allow the different utilities to take a different approach. It seems to me that for good governance, this is the correct approach.

**Sen. Yuille-Williams:** Is this consistent with what is said in the Companies Act, and so forth, in terms of accounting? I am no accountant—I wish the accountants could help—that is why I asked. That is why I got confused: whether this is something that you are—

**Mr. Singh:** I am certain that there are eminent accountants amongst us and they can assist.

**Madam Chairman:** Do any of the eminent accountants amongst us wish to assist on this question?

**Sen. Ayoung-Chee:** Madam Chairman, as somebody who had been involved in the tribunal under the PUC Act, I think it is absolutely necessary to have some uniformity of presentation of accounts.

In one particular case, a concept—going back to 1936—from a book which could not be found was introduced. I think it is very essential that the regulatory body be allowed to prescribe uniform accounting procedures.

**Madam Chairman:** To avoid creative accounting. Sen. Yuille-Williams, are you guided?

**Sen. Yuille-Williams:** Yes. I am grateful for the advice. As I said before, I am no accountant and when I posed the question to the hon. Minister, I did not get a satisfactory response. This is why I said, if this is going to be a parallel form of accounting then it should be deleted, but if it is the only form of accounting that the authorities would be using then I would have to withdraw the amendment.

*Amendment withdrawn.*

**Madam Chairman:** Sen. Yuille-Williams has withdrawn her amendment.

*Question put and agreed to.*

*Clause 67 ordered to stand part of the Bill.*

*Clauses 68 and 69 ordered to stand part of the Bill.*

**4.40 p.m.:** *Sitting suspended.*

**5.20 p.m.:** *Sitting resumed.*

**Madam Chairman:** Hon. Senators, we are going to delay the completion of our amendments for a while. We need some time for drafting, therefore, I temporarily close the committee and we will restart our session.

*Committee suspended.*

*Senate resumed.*

#### ARRANGEMENT OF BUSINESS

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Madam Presiding Officer, I seek the leave of the Senate to resume debate on the State Land (Regularisation of Tenure) Bill.

*Agreed to.*

#### STATE LANDS (REGULARISATION OF TENURE) BILL

[Second Day]

*Order read for resuming adjourned debate on question [August 20, 1998]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Danny Montano:** Thank you, Madam Presiding Officer. I have to confess that my mind has run somewhat cold on this matter since it has been some time that we dealt with it. It has sort of jumped up on us. [*Interruption*] Would you like me to start a fire this afternoon?

I do recall in the Minister's presentation that he made a particular statement which I found somewhat offensive. I wish to challenge him. His statement was to the effect that he had a tape which could testify to the fact that a former government minister by the name of John Donaldson, had suggested at a party meeting that squatters be intimidated and threatened and about breaking down their houses and so forth, in an effort to get them to vote for the party which was in government. That was more or less the gist of what the Minister said. He said he had a recording of Mr. Donaldson suggesting that this be done.

I had the opportunity to question Mr. Donaldson on the matter and his response was two-fold. He said, firstly, if the Minister would say that outside of Parliament he would deal with it, and secondly, if the Minister had such a tape why did he not publish it. What on earth is he waiting for?

**Sen. Mohammed:** Do like the Imam and release it.

**Sen. D. Montano:** To make such a statement without really having any substantive proof, and after all these years not having published the evidence, is somewhat disgraceful to shelter under the protection of Parliament. The Minister should, in fact, withdraw that statement or publish it.

The ignorance of the statement speaks for itself, let me explain. How on earth does any government or party know that someone it intimidates or threatens is actually going to vote for it? Nobody knows who has voted for whom. The voting process here is completely secret. When you dip your finger in the ink it does not come out with a Balisier or UNC sticker on it, nobody knows who you voted for. Therefore, to make that suggestion is completely inane. It is just an inanity, it makes no sense. To make such a statement under the shelter of Parliament, really! I would have thought that the Minister was better experienced than that, but apparently not.

To deal with the Bill at hand I would focus on just one or two things. I would be fairly brief this afternoon. I think Sen. Daly did a reasonably good job of enlightening us about some of the difficulties in the wording of the preamble. In fact, when you look at the preamble it almost creates a legal obligation on the part of the Government to provide land for the landless. I am grateful for his bringing that matter to me. It seems to me it cannot be right to create a legal obligation.

It is one thing for a government or a party in its political manifesto or in its broad policy objectives to state what its policies are, but it is another thing to

create a legal obligation. One of the things we have to consider is this, what kind of land are we talking about? We are talking about squatting, not necessarily land development and allocation to individuals where leases are entered into or the land is sold outright. We are talking about squatting.

Squatting comes from an economic sector in the society and is, of its very nature, unplanned housing development. As soon as a government decides it is going to regularize the tenure of squatters on that land, it is creating an obligation to the occupants to provide proper infrastructure, not just the tenure. As far as the squatters are concerned they have the tenure anyway, they are not going to move. How many squatters have been moved in this country over the past 40 years?

The fact of the matter is, the obligation to the squatters is to provide the opportunity and the access to the social infrastructure which would include roads, drainage, sewerage, water, electricity, schools and hospitals; not just an open ditch and dig a hole for an outhouse and that sort of thing. I am very concerned about this. This Minister is on record as having said that there is no need for a ministry of housing, and that kind of thinking concerns me greatly.

I want to stress, the emphasis on the provision of adequate shelter is clear, once the land has been provided people tend to be able to construct at least some kind of a lean-to for themselves. But the question arises, in terms of the legalization of squatting, as to the relative density of housing. This Bill has not dealt with anything like that. It has not said that each squatter must have 500 square feet, 1,000 square feet, 5,000 square feet or whatever. The Bill does not deal in any shape or form with the density of squatting on any particular area.

What tends to happen in squatting developments in certain areas is that the density goes beyond the point of good sanitation. Mosquitoes breed, children have nowhere to run and the structure of the lean-tos themselves are often unsafe and unsecured. I am not being critical of the people who are less fortunate than some of us in this Chamber, but the reality is that when one starts to consider what this Minister is proposing in clauses 17 and 25, one begins to really wonder, where are we heading? I cannot understand this at all.

Under no circumstances, by any stretch of the imagination, can we sit in this Chamber and permit any government to simply declare areas of land throughout the country as being an open area for squatting. The ramifications for that are rather fantastic, it reminds me of the days in the United States when they were trying to develop the western end of the country—I think it was in Colorado—and

they had everybody lining up with a wagon. They would shoot off a gun and everybody would run off and try to make a stake. Is that what we are talking about here? At least that had some measure of organization to it and the land there was parcelled up, but we are talking about a virtual free-for-all.

I draw your attention to the effect of clause 14(3) which states:

"...a statutory lease commences on the coming into force of this Act or upon the making of an Order under section 17(3);"

Under this section when the Minister simply designates an area, anybody who is there or who arrives on the place, automatically, by virtue of the Act and his presence there, has a lease.

### **5.35 p.m.**

You are not merely regularising existing squatting. What you are doing is actively encouraging squatting and uncontrolled and unplanned development of land. I would like to read a small section in an article that was in the *Trinidad Guardian* on Friday, August 28, 1998 written by Dana Seetahal. This is an educated professional. I say a professional because when I look at the structure of this legislation it is quite clear that the architect of the Bill is obviously an unprofessional, unqualified and untrained urban planner. He did not have the experience, professional qualifications or training to really manage the affairs of the state and to guide a Government. This is what Ms. Seetahal says:

“Does this mean then that anyone, no matter how parasitic or lazy, can acquire land from the State by becoming a squatter? Is it that the status of squatting is to be elevated so as to become something desirable? This would seem to be the logical outcome of the proposed law since why should one bother to work and save money if one could just as easily park up on the side of the Bus Route or on the hills of the Northern Range and obtain a 199-year lease without much ado?

Where is the incentive then to work and to become a positive contributor to society? The whole fabric of a country which should seek to produce men and women on whom the country can learn will be eroded. Instead, we will have a growing section of the community who will be rewarded for becoming dependent on the rest of society.

I am not talking here of the homeless or needy...”

The point that has been missed is it does not necessarily qualify or describe the persons who can squat in the future in these areas under clause 25. Anybody, as long as you do not own land. I do not own any land, I have a 199-year lease on an apartment in Maraval so I do not own any land. I can become a squatter under this Bill. The absurdity of this is too obvious to mention but that is, in effect what the Bill is literally allowing.

Quite apart from the fact, of course, that it is an open invitation to a government to start moving around large sections of the population saying, do not worry they are going to move people from this constituency and we will give you the land. They are opening the door for that kind of gerrymandering. It is not going to work for long. This is 1998, people are not so frivolous and silly anymore. They are going to come down to the real issues of the day and people are going to start to vote for the real issues that touch society and they are not going to be particularly impressed with this kind of nonsense because, as I said, up until now, at least, we can expect that when people vote they will vote in secrecy. Nobody knows who you are voting for and at the end of the day the numbers will speak for themselves and the kind of favours that this or any other government may think they are trying to create may very well backfire on them.

The fact of the matter is that it does not, under any stretch of the imagination, justify a provision of these designated areas from clause 17(3) including clause 25. In fact, the Minister in his presentation really made no case as to why this would be necessary in the future. Some of the speakers on both sides gave a pretty good account of the history of squatting in the country and the need to regularise squatting. But squatting is an indication of the population growth and the lack of real opportunity for the less fortunate in the society. Rather than hearing anything on that side about dealing with the real issues of the day what they are talking about is the future. What they are saying is, “in the future you have no hope. Do not worry about that, you have no hope to really buy your own land so from now we are saying that you can go and squat and we are going to regularise your position.” And they talk about charging them for the infrastructure and so forth.

How are the squatters going to pay and if they cannot pay, what does the Government propose to do? If the Government puts down a proper amount of infrastructure and in the granting of one of the leases—do not forget that by virtue of clause 14(3) the tenant has a lease. It may not have been executed but he has a lease, so the Government cannot throw him off as far as I understand it. In the execution of the legal document the charges are now being assessed for

infrastructure that can be amortised over the life of the lease and if the tenant does not or cannot pay that, what does the Government propose to do? I do not know what to say about this. A couple of adjectives come to mind but I will have to be prudent.

Madam Presiding Officer, I cannot see that we can sit here this afternoon or any other afternoon and allow clause 17(3) up to 26 to pass in this Senate. We are creating a liability on the part of the state; an undefined and undisclosed liability on the part of the state to provide infrastructure of sorts, although the Minister has not actually said so, but at least he is going to provide land in a random, *ad hoc* manner. It is not as if he is talking about developing land and then through a process of screening, allocating it to those who are less fortunate.

That is not what he is talking about because that is the problem with the John John Towers. It does not really matter what the apartments cost, the government decided to develop the city, which is something that the Minister is on record as saying that the government should have done years ago. In terms of the density of the city, there is nowhere to go so they went up with the apartments and that created some decent shelter for the people who are underprivileged, whatever it cost. I am not that familiar but the fact of the matter is, building in the city is expensive and always has been, especially when you are going up with multistoreys, but the point was that provision of adequate and competent shelter to those who were less fortunate in the society. The allocation of the units was going to be done on a proper, sensible basis, not on a first come first served; it was not as if everyone in Laventille was lined up outside and a gun was shot off and everybody had to run for it. That is crazy but that is more or less what the Minister is saying in clause 17(3). He is saying he is going to designate areas and everybody will make a mad dash for it and put down their lean-to or tent or whatever and say, "I am here". Once you are there you have a *de facto* lease or a legal right to be there and nobody can shove you off.

Madam Presiding Officer, that is irresponsible government of the highest order. What I want the Minister to come back and say is that in an effort to provide meaningful shelter and opportunity for those who are destitute and less fortunate in the society, Government will designate certain areas for development and Government will develop to a particular standard and then, on the basis of screening and application and so forth, will allow entry into those areas and then you have planned development. That is planned, not this.



It is late and I have things to do so I will let the other Senators deal with the rest of the Bill. Thank you very much. [*Desk thumping*]

**Sen. Dr. Eastlyn Mc Kenzie:** Madam Presiding Officer, may I, at this stage though late, say to you congratulations and thank you very much.

Madam Presiding Officer, those of us who remember well will remember that in 1996 we had a version of this Bill and here we have this Bill in 1998 and there are very many changes we have seen incorporated into this Bill. For example, in the 1996 Bill I had done some work in communities getting the ideas of people and I see where this Bill, together with the Planning and Development Bill, would have taken care of many of the fears of some of the people because concerns centred around environmental matters and the Planning and Development Bill has certainly taken care of many of those concerns.

But I do have some concerns that I would like to express very briefly. I would also like some questions answered by the hon. Minister or somebody on that side when a reply is given. I want to start off by saying that, in my opinion and as far as my experience goes, in Tobago the biggest squatter we have is the Government. Let me explain to you what I mean.

Here we are trying to regularise people who have illegally gone on to state lands and in Tobago we have people who have actually paid for state lands and not at 25 cents per square foot. They paid a lot of money for six, seven and eight years to the Government and yet they cannot even enter upon the land legally. The Government has the money and I cannot understand why it is taking so long for Government to regularise their own squatting and here we are fighting desperately to regularise other squatters. I know the hon. Minister has just taken over the portfolio and I want to appeal to him very specially to see what he can do to erase the name of Government from among the biggest squatters in the country.

I want to ask another question. Very often when we go to buy land we pay according to the location, the infrastructure or whatever, but it seems as though, from what I understand from the Bill, regardless of where you are squatting or the infrastructure put in, the fee per square foot is the same.

**5.50 p.m.**

I want to know whether there is any value placed on location, because I think in the country if you go to buy land near the sea you pay more than if you buy land in the woods. So, I would like to get some reasoning behind that.

I looked at the list of amendments in the Schedule, and I see the drastic increase. In fact, in 1996, there was no schedule; in 1998, we had an amended schedule and I took the time to sit and number settlements in this Schedule—251, excluding Tobago. The lack of information leaves me a little puzzled because I cannot come to any assessment, because I would have preferred to see, alongside the settlement areas, the number of houses or whatever on these sites. That would have given me an idea that if there were 251 areas with 10 houses on each, and I might even say there were two people living in a house, the sort of numbers that I am talking about that we have to settle. I am saying that we would like to have more information on this list in the Schedule.

It brings me to another point. When I looked at the number of settlements, 251 and in the Bill, there are time-frames—this must be done within a year; that must be done within a certain time; and we have a land committee. What sort of resources would it have? Where would the resources and manpower come from to handle all this, to give these people a time-frame and a deadline within which they must submit and get a response? Probably the hon. Minister has the answer. It is only that I cannot discern it. I cannot find it anywhere.

I come again to the succession. I want to put in a bit of information. Many times when we make these rules, we do not think that the children of these squatters will aspire to heights. Many of them will not remain as squatters. Their children will go to school, aspire, achieve and will become doctors, lawyers, teachers and people who can afford. If we are not careful as to how we make this succession clause, then we could be passing on lands from an underprivileged person to a son or a daughter who becomes, like me, able to work and buy one's own land. But, here I am living on cheap lands and robbing somebody else of an opportunity. So, I think that this clause has to be looked at.

I am not saying throw out children after their parents have gone, or are dead, or whatever. I am not saying that at all, but I am saying that probably the statement in the Bill that the lands must pass to the state is a good one and then decide what will be done and how it will be done. Because a well-off offspring, not even a son or daughter, because I could will my land to anybody I feel, and there could be settlements where there are relatives and friends getting into a block and the next thing we know is that the block becomes "Mc Kenzie's block" when, in truth and in fact, no member of that family is in need or is underprivileged. So, let us be careful.

I look again at the definition of “dwelling house” and it says:

“to be used mainly...”

And that is my word.

“...as a residence or dwelling;”

It tells me, therefore, that I can use a part of my building for a business or anything else.

I know in the real world, if you rent land for a little house, it is at a certain cost, but if you rent land to put up a business, it is at a different cost, so I am wondering, also, when we make the definition of “dwelling house”, whether we could not have a big supermarket running on land at 25 cents a square foot as against someone who is really desperately in need. Will those people be upgraded? Are there going to be changed conditions of lease? What is going to be the position? I would like to find out.

Madam Presiding Officer, I would also like to know, probably not from the hon. Minister of Housing and Settlements, but from the hon. Minister of Finance, whether these low-income, underprivileged people would qualify for low-cost housing loans as we have the arrangements provided for in the budget—I am not sure—so they can be helped to uplift themselves out of the kind of squalor about which Sen. Montano spoke.

I am sure that the hon. Minister would put in the regulations, as I know would happen, that for things like pig pens, *et cetera*, there would be some sort of ruling on that. Because I know that in residential areas, people, after a time, begin to use the place for different reasons and they become a nuisance to neighbours.

I wonder whether clause 19(a) would not have to be deleted, because it speaks about the Town and Country Planning Act. I am wondering, seeing that they came in different orders, whether this is not something we have to consider. I do not know. I am asking. This is what I am doing.

I am coming to the end of my contribution. I am asking that in view of the fact that we have a Planning and Development of Land Bill which, it was said, would nullify the Town and Country Planning Division. So, I do not know. I would like to be advised. This idea does not come from me, but from consultation with people in the villages, whether after regularisation there would be a monitoring and reviewing of the whole process of people visiting to see what is happening in these

communities. Are the real people who actually got the leases still living there? Or, have they gone and just left somebody in the house? We do have situations like these where the people who were actually given leases are no longer there. They have gone on and are probably renting the property. We need to look at that type of thing.

I come to the question: Where will the land resource committee get its resources to work? Who will pay them, according to clause 7? How much will they be paid? What about the hiring; the firing; the recruitment procedure? I am sure the hon. Minister has answers to these questions. I would like, Madam Presiding Officer, to be given some sort of idea.

I am happy that some sort of order would be brought to this, but I think we have very many matters to look into. I would not touch on the situation with Tobago because the hon. Minister did give an indication that Tobago would be able to handle its affairs according to Act No. 40 of 1996. I see from the original Schedule that only three areas have been left in the Schedule. I take it for granted that probably some sort of consultation went on as to why there are some areas eliminated.

I want to ask of the hon. Minister that in his delegation of powers and duties, he does not fall into the trap that we, as little children, when we went to school—you know, we had our little folk practice and we used to give children things and when we were vexed with them, we took it back and we were told that we would get a “cattle boil”. We do not want to look on the Government side at any time to see any Member with a “cattle boil”. It will tell us that they gave something, some sort of discord happened, and they asked back for their thing. We do not want any “cattle boils” to come here because we want everybody to come here looking as nice and as fresh as they normally do. [*Laughter*]

These are some of the concerns I have and I would be happy to have them addressed when the hon. Minister does his winding up. Thank you very much.

**Sen. Dr. Eric St. Cyr:** Madam Presiding Officer, we know that we have an enormous problem pertaining to squatting in this country, and we know from the scholarly references of Sen. Prof. Julian Kenny of the historical origins of that problem. We know that in very many ways this is quite a unique society, basically a major cleavage running between those within the normal ambit of the established society and, those as it were, on the periphery, so that there is a measure of dualism in the society.

We also know that there is in the society, developed over the years, a number of cultural features, one of which is an absence of respect for law and order; another is a deeply entrenched entitlement syndrome; yet another feature in the society is an absence of moral restraint; but, if I were to put all these things as background issues, the fact remains we do have problems, one is the absence of shelter, another is the absence of order and a tremendous amount of squatting with all the implications for public health. I think that these things are those which the hon. Minister is setting about to address. I think it would be fair to let him know that the perspective and target he is trying to attain are quite appreciated.

When I was a student, we used to be told that if at 20, one was not very socialist inclined, then one had no heart. But, we were also told that if one remained that way at 30, one probably did not have any head. And so, while I am very much aware of the kindness of the hon. Minister, and his genuine concern for the less well-off members of society, I do wonder whether in this draft Bill, we have what is a viable long-term solution to the problem at hand. I believe that the hon. Minister's approach may give a short-term solution, so my principal comment is going to be on clause 28(3), but I will come to that in a little while.

There is a fundamental land problem that has to be addressed. How is it that people come to be entitled to land? How is it that communities move out of having land communally or having access to land, which is necessary to derive food and other things to sustain our body and soul together?

#### **6.05 p.m.**

How is it that private property emerges? This is a very serious question because perhaps we need to put this philosophical concern somewhere in the back of our consideration. I am led to refer to the thinking of two eminent scholars one, Thomas Hobbes who argued that self-preservation is one of man's most fundamental urges and that naturally leads him to want the wherewithal to sustain life. But there is no limit to what one thinks would satisfy life, so self-preservation almost inevitably leads to an extension of one's influence of power, and once you are not the person so motivated, but everybody else is so motivated, then we come to a situation where, as he put it is: "all against all" We would say in Trinidad: "dog eat dog."

In such a setting, there is conflict, there is a risk to the very self-preservation with which you were originally impelled, because other people are resisting the extension of your power. And so man in society is impelled in the direction to

establishing government which would maintain law and keep order among its members. Such government must have the power to preserve law and order and to protect you. Hobbes naturally led to the position of a Leviathan, an all powerful king who could hold the thing together and could then determine who would have land and on what terms. I think the old land grant system—historically in the Caribbean we have had much experience—derives from that system of thought. Of course, not many people would concede to that Leviathan, the philosopher king, because inevitably, he too becomes oppressive and needs to be restrained.

This takes us to another great thinker, John Locke, who in his way of thinking was very anti-authoritarian and to whom Government emerges as a social contract. But in that social contract, man starts off with God-given or inalienable rights and among the rights he recognizes the right to life, liberty and property. So that property in this context is a right which man, as an individual brings with him into society, and very interestingly, that is the basis of the stakeholders rushing for land in California to which Sen. Montano referred.

How we make a connection here, is that without land, you are not able to subsist, and so if as happened in the 19th Century here, after the abolition of slavery, land was scarce, then morally people felt the right to go into the hills and plant gardens and maintain themselves. And so, deeply rooted into our culture is that spirit that there is no alternative short of lying down and die. Once there is open space we can take it, but this really could not be the basis on which a society with any respect for law and order could be founded and one of the great weaknesses of this society is a fundamental lack of respect for law and order.

A second related issue which I want to put as a background consideration is the issue to which Sen. Dr. Mc Kenzie referred, and that is what determines the value of land. Basically, there are three elements: there is the raw land value and what gives the basis for raw land to have value is that anyone with a title to land within a state, the state must be able to protect and defend that title, both from other persons and from intruders from outside. So by your membership, your citizenship in that state you are supporting the government, the state. The apparatus in exchange for the protection of your property within that state becomes an exchange of power as it were.

The second component in determining the value of land is the value of infrastructure such as roads and other such man-made amenities, and the third and perhaps the most important is site.

Madam Presiding Officer, since human beings are very gregarious and naturally tend towards population centres—barring the few odd hermits—and also because site contributes to economic welfare, in that there are markets around, opportunities for exchange and also deriving other benefits like transport, the specific location adds to the value of the property.

Clearly, in these circumstances, we cannot allow people simply to go and settle where they would because we could very easily revert to the law of the jungle, so there really must be order and that is the basic point I want to make. There must be order. I know that this Government and previous governments before this one would like to bring order to the availability, distribution, and access of the population to land.

Both in this draft Bill and the present legislation on the statute books, Act No. 20 of 1986, we see the concern that I am addressing in that in this Draft Bill, there is specific reference to a day on which this Act would come into effect. There is a specific date designated as the appointed day which is in clause 11(2) and in Act No. 20 of 1986, there was also defined an appointed date which was December 2, 1977. Basically, in both situations there is an awareness that let us bring order to the chaos which now exists, but let us at that point draw the line and establish orderly procedure into the future. In other words, we all concede that there is need for order and I really do not think that there is in this Draft Bill any consideration, or provision for dealing with this long term structural problem. I think that a valiant and workable attempt has been made in dealing with the immediate short-term problem, but just as the present regularisation attempts could not appear to deal with the problem because more and more squatters are coming on to the scene every day, I do not see anything in this Bill to address that long-term fundamental problem.

I think that we have to get back to building and inculcating in the society those fundamental principles, moral restraint, respect for law and order, a disposition to work, to save, to accumulate, and a return to simple dignified living. If I wanted to be critical, I would say that one of the fundamental elements has to be an orderly and restrained development of family units, because one of the sources of squatting is the irresponsible, precocious shacking-up and the necessity to find a place where to locate.

**6.20 p.m.**

In addressing this problem in the short run, except we put in place measures that will stem the inflow of new squatters, then we may deal with the areas we have now photographed and with the units there, but by the time we finish, we will probably have twice as many to deal with again. I am making a plea to see us take these wider considerations in hand. I believe that we must heed the wisdom brought by Sen. Daly in relation to the Preamble or else we would put ourselves in great difficulty.

Finally, Madam Presiding Officer, I believe we have had some experience in the last 10 years or so attempting to regularise squatter sites. My information is that through the settlements loan which the Government negotiated from the IDB in the late 1980s, there was a component designed to assist in the regularisation of certain squatter sites and we have accumulated some experience there.

I want to refer to just two specific types of problems that arose there: the willingness and the ability to pay for infrastructure cost.

**PROCEDURAL MOTION**

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** I thank the Senator for giving way. I have to move a procedural motion. Madam Presiding Officer, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until 8.00 p.m.

*Question put and agreed to.*

**STATE LANDS (REGULARISATION OF TENURE) BILL**

**Sen. Dr. E. St. Cyr:** I was referring to the experience we have gained in the last 10 years as work was done to regularise various squatter sites, and much wisdom has to be brought to bear, and a tremendous insight into the sociology and dynamics of these communities.

The infrastructure cost could be recovered, and those infrastructures are necessary because if we take a very simple example: without roads, we are not able to drive our garbage collecting trucks. So, our garbage disposal would depend on our having adequate roads, and I think these trucks come in minimum sizes and weights, and if we do not dispose of our garbage, the whole society could be exposed to a health risk. Since these squatter sites are interspersed liberally among areas where people have paid the full cost of those properties, we could all be disadvantaged if this could not be done.



I take one final example: the determination of the size of the squatter lots. It is natural that a squatter going in first into an area would stake off as big an area as the squatter can. I know the intention in the draft Bill is to standardize and regulate that to 5,000 square feet, but one will find now that there are squatters sitting on three or four times that amount. How does one deal with that? I could foresee some resistance, but perhaps I could foresee some subterfuge by way of keeping control. I do know that there is an area of concern of the hon. Minister which, in this light, could constitute probably a weakness because he does not think of housing, but of settlements; a place where one lives and attached or surrounded is the wherewithal to earn an income. One could well argue that one is doing market gardening, so one needs not 5,000 but 20,000 square feet around.

Madam Presiding Officer, by way of summary, let me say that we do have a problem. The problem, except we deal with the long-term historical and sociological dynamics, will not be addressed by this Bill. This Bill is essentially short term. I think it is just; I think it is kind; and I think it is responsible that we regard the state of the less privileged in the society and seek to give them a stake in the society, but I really do not know that this constitutes a solution. In fact, it looks rather as a short-term palliative.

I thank you very much.

#### **REGULATED INDUSTRIES COMMISSION BILL**

*Committee resumed.*

**Madam Chairman:** When we suspended the committee, we had four clauses to consider: clauses 24, 34, 36 and 42(3) and (4). Has everyone received their copies of the amendments?

*Clause 24 recommitted.*

*Question proposed,* That clause 24 stand part of the Bill.

**Mr. Singh:** I beg to move, that clause 24 be amended as circulated.

24      Insert as subclause (5) the following subclause:

- (5)      The functions of a Consumer Service Committee shall consist of but not be limited to-
  - (a)      advising the Commission on matters relating to the type, level and quality of service provided by service providers;

- (b) assisting in ensuring that service providers implement adequate complaint procedures for the speedy and appropriate resolution of complaints made by consumers;
- (c) participating, on request, in proceedings of the Commission where the terms and conditions of licences or the basis of tariffs or rates charged by a service provider are being considered;
- (d) attending to such other matters as may be assigned to it by the Commission from time to time.

What is stated here as the functions is what I indicated earlier to the House. Indeed, I would like to indicate that it should really read “attending to such other matters as may be assigned to it from time to time by the Commission”. So there is a sort of sequencing of the language in 24(5)(d).

**Madam Chairman:** Sen. Mohammed, does this meet your needs?

**Sen. Mohammed:** Sen. Yuille-Williams’ amendment with the functions of the commission.

**Madam Chairman:** Sen. Yuille-Williams, does that meet your requirements?

**Sen. Yuille-Williams:** I suppose that at least I have an idea of what the commissions are supposed to do.

**Mr. Singh:** With the regulations, it will be enhanced.

**Sen. Mohammed:** Madam Chairman, there was another amendment with respect to clause 24.

**Madam Chairman:** We will take them one at a time. Sen. Yuille-Williams, are you happy with this now?

**Sen. Yuille-Williams:** Yes.

**Madam Chairman:** The other one had to do with Sen. Nafeesa Mohammed’s proposed amendment being changed to read “Minister” instead of “Commission”.

**Mr. Singh:** It should read really, “the Minister after consultation with consumer interest groups”. So, therefore, although it is not covered in this, that was what was agreed upon.

**Madam Chairman:** Can we just confirm that?

**Sen. Mohammed:** I would agree to withdraw the amendment here of “Commission” to replace it with “Minister” in the first line and in the last line. Bearing in mind that the functions are now spelt out, there is another aspect that we have to deal with in clause 24(2).

**Madam Chairman:** As I understand it, the amendment which was re-amended by Sen. Daly was to read in clause 24,

delete sub-section 1 and substitute the following:

“The Minister may, after consultation with consumer interest groups, appoint such consumer service committees as the Minister sees fit”

Just for the avoidance of doubt, the question is that clause 24 be amended by deleting subclause 1 and substituting that.

*Question, on amendment, [Sen. Daly], put and agreed to.*

**Sen. Mohammed:** Clause 24(2) also has to be amended. We had discussed the composition of these committees, and 24(2(c) should now read “three members”.

**Madam Chairman:** That was already done in committee.

*Question put and agreed to.*

*Clause 24, as amended, ordered to stand part of the Bill.*

**6.35 p.m.**

*Clause 28 recommitted*

*Question proposed, That clause 28 stand part of the Bill.*

**Madam Chairman:** There is an additional amendment to clause 28(1).

28(1) Delete the words "twenty eight days" and substitute the words "not later than twenty eight days".

*Question put and agreed to.*

*Clause 28, as amended, ordered to stand part of the Bill.*

*Clause 34 recommitted.*

*Question proposed, That clause 34 stand part of the Bill.*

**Madam Chairman:** There is an amendment to clause 34 which we have just received.

- 34 In subclause (3), delete the words "30th June in every year" and insert the words "six months after the end of the preceding financial year".

Sen. Dr. Mc Kenzie, does that answer your question?

**Sen. Dr. Mc Kenzie:** Yes.

*Question put and agreed to.*

*Clause 34, as amended, ordered to stand part of the Bill.*

*Clause 36 recommitted.*

*Question proposed, That clause 36 stand part of the Bill.*

**Madam Chairman:** The amendment is as follows:

- 36 Delete and substitute the following clause:

"Financial year 36(1) The financial year of the Commission shall be determined by the Minister with responsibility for.

- (2) Notwithstanding subsection (1), the Commission may, with the approval of the Minister with responsibility for finance, vary its financial year."

*Question put and agreed to.*

*Clause 36, as amended, ordered to stand part of the Bill.*

*Clause 42 recommitted.*

*Question proposed, That clause 42 stand part of the Bill.*

**Madam Chairman:** The amendment is as follows:

- 42 Delete subsection (3) and substitute the following subclause:

- (3) Compensation for a variation made pursuant to subsection (2)(b), shall be determined by the Fair Trading Commission.

**Sen. Montano:** I do not know what the Fair Trading Commission is.

**Madam Chairman:** It is a commission set up under the Fair Trading Act. The reason you do not know is because it has not been set up yet.

**Mr. Singh:** I can understand your predicament, but in the fullness of time.  
*[Laughter]*

**Sen. Montano:** I am being asked to agree to something I know nothing about. The other thing is, the issue I was raising was that I think the level and amount of the compensation ought to be published.

**Mr. Singh:** If you are going to have a tribunal determining the quantum of the compensation, how are you going to prejudge the findings of that tribunal in order to establish how much compensation?

**Sen. Montano:** I am not prejudging anything. I am simply saying that once you have arrived at a level of compensation, let it be published, I think the people have a right to know.

**Mr. Singh:** I think that we will be getting into the arena and getting into the process and procedure. We could deal with that at another time.

**Sen. Montano:** Out of an abundance of caution, this whole business is taking place in some secrecy. The affairs of the commission are taking place behind closed doors. Now we are setting up a situation here where compensation can be made and we do not know how much it is going to be. I find that rather extraordinary.

**Mr. Singh:** Let me put this into perspective. Where you have the Minister varying the licence, the utility provider can go outside of his jurisdiction in order to establish, and it is still shrouded in secrecy? Really, it does not hold water.

**Sen. Montano:** What we are talking about could, in fact, amount to a fairly substantial burden on the Treasury, and I think people have the right to know what that would be. At some point something like this may end up having to come through by way of a variation of appropriation, but this is way after the fact.

**Sen. Prof. Spence:** Madam Chairman, I always thought all matters before the Fair Trading Commission should be published. Let us deal with it when we establish that commission.

**Mr. Singh:** The commission would have public hearings, not in camera.

**Sen. Montano:** I do not know what is going on inside of a fair trading commission as yet.

**Mr. Singh:** Patience is a virtue. *[Laughter]*

**Sen. Montano:** I am supposed to go through this blindly?

**Sen. Rev. Teelucksingh:** Is it true that this piece of legislation has come about as part of a loan conditionality?

**Mr. Singh:** No, it has not. I want to clarify it. Since 1977 this has been in various stages of gestation and denial by various administrations, but in order to lay the proper framework for getting private sector involvement, this ought to be part of your legal framework for your society. So it is not a question of being motivated by any conditionalities.

*Question put and agreed to.*

*Clause 42, as amended, ordered to stand part of the Bill.*

*First Schedule.*

*Question proposed, That the First Schedule stand part of the Bill.*

**Sen. Prof. Ramchand:** I was not clear when the Minister said that public transport would come in at a later stage.

**Madam Chairman:** Yes. They can be added according to the early provision in the Bill. This is just for now.

*Question put and agreed to.*

*First Schedule ordered to stand part of the Bill.*

*Second and Third Schedules ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, with amendments, read the third time and passed.*

#### STATE LANDS (REGULARISATION OF TENURE) BILL

**Sen. Muhammad Shabazz:** Madam Presiding Officer, it is with great pleasure I stand to address this Senate. On this Bill I take the position that as long as land is being passed to anybody, especially to people who need and deserve it, I think it is indeed a good thing. What I have here is a note coming to me stating that if I should be irrelevant, section 35 would be shown to me. I have this note

somewhere on my desk, but I want to let the hon. Senator who sent that note know that when I stand to speak, I speak fearlessly. Not only do I speak fearlessly, but I may say things here that sometimes appear not to be relevant, but that are relevant to a large constituency out there; relevant to the nation and to a number of underprivileged people who need to have a voice here speaking for them. At no time, whether I take party lines, or whatever, would I lose that voice that is so important to the people out there. So that threat means nothing to me, and section 35 could be brought up a thousand times. The hon. Senator is showing me the Standing Orders, but I would not look in his direction. This indeed is the note Madam. [*Waves note in air*]

**6.50 p.m.**

Madam Presiding Officer, anytime land is given to a people it is important. I am standing for that and I am saying that knowing how the country is, when land and houses are passed to a people, it is a very important thing. As a matter of fact, I think the hon. Minister's intention, what he projects and says about giving land and houses to people is very noble and honourable and I wish that he can indeed achieve that cause.

Maybe, when I look at the history I may think that it is difficult for him to achieve the cause. I must say that when I look on that side, I tag all individuals there to be fine people, but when they come together it is like bringing strings together to make a piece of rope; they are really hard to pull or get some leverage on. When they come together as a team or regime they are very difficult to reach also, but as individuals most of them espouse very noble causes. [*Desk thumping*] So, I want to indeed say that I am in agreement with that situation.

Madam Presiding Officer, there is a history that, at times, must go with it. We have looked at a number of things that this Minister is attempting, and I hope that in this venture he will be successful. The Land Tenants Association was one of the things purported by a number of members of this regime; that was a failure. The Sou Sou Lands arrangement—a number of people are still owed money as far as the Sou Sou Lands are concerned—another failure. A number of other things pertaining to land have been failures. It is the Minister's intent, although I think it is noble, to give land to people. I feel people in this country should be getting an upgrade with the land situation. If they look back it is when the People's National Movement came into power in 1956 and around that time it was our duty then to ensure that land, better housing conditions and a number of things were given to people to improve their situation.

We were, indeed, very successful throughout Trinidad and we did not take class, party supporters or race into consideration when we came to that. We did it for all, and the country, as a whole. This is why Trinidad and Tobago is in a far better position. It is in a tranquil position and our citizens, at this point in time, regardless of what may be said, are still enjoying what, to me, is one of the better lifestyles of people in the Caribbean and that is because of 40-something years of stable government which seems now to be disrupted in some way.

As I said, I want to go into a little history. I am one person who would say that the people on the East/West Corridor, particularly those who live in Laventille, deserve land. Those are the people who really were not given any kind of land. When one looks at the history of this country, all other people seem to have been given land. Some were given land when their period was up and we were not given any. I want to tell this Senate that many of those people in Laventille were not given land. I want to let you know this.

At the end of the slave trade—I want to bring this history into it which is the truth—a lot of leaders and slaves were promised land at that time and they were asked to meet somewhere in Lopinot. All of them gathered, went to get their titles and deeds for the land and they were all massacred. Lancelot Layne, today, has put up a place for them so we would remember. A number of those people were not given land. So, I am saying today, if given land I am for that; if given houses, I am for that.

As a matter of fact, in giving these people lands and houses I would ask the Minister to ensure that the infrastructure in these places is proper. Build proper roads and facilities. I am not saying do not give them. I am saying, yes, give it to them because this has been our whole line as a People's National Movement government. I am saying to give them the lands. I am saying again, not only to give them lands, but where you can give them houses, give them houses and make sure that they get it. However, I am saying to put up proper infrastructure.

Madam Presiding Officer, I want to bring one case in point. With respect to Malick a loan was negotiated with the IADB, Loan No. 584, National Settlement Programme, Malick, Phase I; Squatter Regularization Sub Programme, \$40 million was received by the last administration. We started to put in roads and infrastructure in those areas and the minute this regime came into power all the work was stopped. Where the roads were being laid is now mud. The hon. Minister of Works and Transport will remember that I asked him to enquire of the



Minister of Housing and Settlements about going back into that area to fix the roads and the area in general so that the people would have better conditions under which to live and proper infrastructure. [*Desk thumping*] Other than that, there are a number of other areas in which we need to see the infrastructure go up and be proper. Again, I want to exhort you to give the people their lands.

Madam Presiding Officer, when we look at the Demerara lands where there squatters, people are dying and a number of things are happening. The Government must not be silent on those issues. Do something about the people there. When we are talking about squatting land, are there not squatters in Sea Lots? Yes the people can come to you to have their names included, but consider them. Those places where you cannot regularise the land, find housing areas and provide accommodation for these people to live. I know that this Minister is not about giving houses, but I am saying, find a way to make these people's situation better.

Madam Presiding Officer, I am not saying that if somebody lives in a squatting area that they should move out when things are better because that is one of the things I want to see. I want to see that the people would get their lands and get it in such a way that they will be able to keep it and, maybe, live there for generation after generation. What you need to do is fix these areas. My reason is this.

One does not give somebody something, as somebody said, and take it back. When you give people something you give it to them. I happen to have grown up in a housing area. Personally, I do not want success to make me move away from there. I want to stay in that area to pass my house and area onto my children because I am a second generation living there. My success must be there to motivate the other people in that area. So that I do not care where it is; do not care how bad it may look, personally, I prefer to live in a shack where there is love than to live in a house which is large and sprawling and there is no love but only hate in it. So, if I am going to live in Malick Hill, or some other housing areas, I want to do that with a certain amount of pride and for me to do that with pride, my area must be considered not only as a low class area, but things must be done continually—as the People's National Movement has been doing in all these housing areas—to elevate and lift the conditions of the people living in these areas. [*Interruption*]

Madam Presiding Officer, I want to say that 35 years ago—this is the truth but people tend to forget—my father who was a taxi driver did not believe he could have lived in a house with all the amenities in it. He felt he was doomed in those

times. It is the PNM that gave him the opportunity and a chance to send his six children to secondary school to be educated. It is they who gave him that opportunity and a shelter. All the things that this Bill seeks to do is what the PNM has been doing all the time. It is the PNM that gave us that shelter and there are a number of people who are thankful and understand that under the PNM government this was not a big thing, it was a given. It was a must to provide shelter, land and everything for all. Remember it was we who gave the lands in Wallerfield.

As a matter of fact, even in looking at this Bill one of the things I would like to see is the agriculture lands in Aranguez, that are government lands, regularised, regardless of who these people are, so that their lands will be there for them to plant food and make this nation far more self-sufficient as far as food is concerned. *[Desk thumping]* Make their lands legal too.

Madam Presiding Officer, there are a number of bills that come with amendments and we would do our best to try to put this together and make it orderly for the Minister, but there are so many things coming. The point is that to make tenure and equal access to land bearing in mind the need of the population for serviced land, but at the same time recognizing the inability of the poor and underprivileged to afford serviced land. Good point.

**7.00 p.m.**

I am saying, again, a good point, and if, for once, the Minister could get that success, he can leave his Ministry knowing at the end of his term—which is very soon—that he has achieved something valuable and worthy for this nation. Give the people the land. I am in agreement.

We spoke about the power of the Minister and we see this coming up in a number of bills. Here, again, there are certain powers given to the Minister. I know that Members on the other side feel that we are labouring that point too hard, but we must. Again, if the Minister is going to be given power we must look at that power and understand why and how it will operate. Clause 15(4), on page 17 says and I quote:

“It shall be a condition of the Deed of Lease that the State shall have the first option to purchase, on a sale of the dwelling house within the first five years of the grant of the Deed, so however, that any assignment of the Deed at any time thereafter shall be with the consent of the Land Settlement Co-ordinator.”

Would there be no time in this 100-odd-year lease that the people have the right to do what they want with their homes? Is there no time when this situation is being regularised, that the people would be able to have a say? Must it always go back to the Government in the first five years? Would the co-ordinator have to say what the situation is every time they want to sell or want to change their position?

Clause 15(2) says:

“The squatter or tenant shall pay to the Division on behalf of the State, a premium to be prescribed by the Minister, by Order, in consideration of the grant of a Deed of Lease.”

Would the Minister set the price that one should sell his land or house for in each area? Would he, at that point in time, in the first five years say, this house costs “X” amount and if there are 20,000 squatter houses every time somebody decides to sell, must they go to the Minister or the land settlement co-ordinator to determine what the cost of these houses or the land must be? It is important and I wish the Minister would look at it and give some answers.

Clause 18 says:

“The power of the Minister to amend the Schedule may be exercised—

(a) on his own motion;”

I want the Minister to give me a little more clearance on that.

Clause 19 says:

“The authority of the Minister to bring an area under the Schedule is subject to the following conditions:

- (a) that an Order pursuant to section 9 of the Town and Country Planning Act is obtained;
- (b) that the area is not—
  - (i) allocated for industrial, agricultural or mining purposes;
  - (ii) a green belt area, such as a forestry conservation area;”

We want to know whether the local government bodies would come into this, or whether it is just the Minister who would say where the lands are going to be, when and how they are going to come on and which areas they are going to take them to and things like that.

Clause 28 says:

“A person who squats...within a Designated Area after the appointed day...”

Madam Presiding Officer, let us say a land settlement area—for instance where I live there are two houses in an area but the people have been living there for 20 years—could you say that these people have been living there without permission and move them? Or, would you now say that this is a new land settlement area, you have been in the area so we are going to leave you there?

There are a number of areas—somebody spoke about the Bus Route—where people are squatting, what would be done with them if these are not designated land settlement areas and are not big enough for people to apply, or people feel that they should not apply? How would that be dealt with? What would be your approach? Would you leave them there? Would you now make them new settlers? I would like the Minister to answer all these questions.

There are land settlement areas like the wharf in San Fernando, how is the Minister going to deal with that? Is he just going to throw the people out? Remember, the intent of this Bill is to regularise the situation for the poor and underprivileged to afford serviced land. Do not tell us that land cannot be subsidized because we know it can be. When we built the John John Towers on the land it was to subsidize and to help people who could not afford. Somewhere there is a public relations thing that we did not intend to give the people the houses, that is untrue, Madam Presiding Officer. If we are not talking subsidy—when a man goes to the Port of Spain General Hospital and has to do an X-ray and he had other things done, if he is told that he has to pay the full cost for everything, then a number of people would not be able to afford a number of the services.

Therefore, in housing and where land is concerned, it must be made available and if this is the intent of the Minister—I say the Minister because I do not want to bring his party and the Government into this, because this might not be totally their intent. If it is his intent, he should try to bring to the attention of his people that his intention is to bring land to the underprivileged, to those who cannot afford the services of land and help them to better themselves.

There is a point that is being made here. If there is a housing area with 600 houses and I decided I am going to live in one of those areas and I built a shop on my area of land, even though I am living there to service that area, what am I to do? Am I to say there should be no shop because that was not in the plan and break it down? How would the people in those areas get serviced? People must be

allowed to build. People's condition must be improved. If I am living in a housing area it does not say that I do not want better conditions for myself. If I am going to do something with my house, am I to say that this is not permitted under the Bill and I cannot improve my house? I must only live there but I cannot put a shop or parlour on it to sell cigarettes and as business gets bigger I expand? Where in the Bill does it say that? As far as I can see, the Bill seems to say that you must operate within a certain kind of way and if you are going to do some other kind of business there, it has to come back to the Ministry or to the Housing Commission. I would like that question answered so I can be clear in my mind.

Madam Presiding Officer, when I look at the housing areas in which we live—and it is a point to note—success seems to be a funny kind of thing, because many people believe, particularly, in the kind of residential areas—the word residential seems to change a lot of things, progress is a kind of thing that one no longer plants a garden in one's yard. We no longer see fowls in our areas. We are all becoming residential and these are things we do not do and we aspire to other goals than the area that we should be encouraging people to continue with so they would become self-sufficient, they would not have to depend so much on the state. This is the thing about success, people feel that because one was getting fowl eggs from one's yard, now that one has become a professor that “fowl mess smelling bad”.

### **7.10 p.m.**

We must remember, that these are the ways that helped our families—the planting, the rearing of fowls, the rearing of everything, so that people will be less dependent on the state for their development; and we must encourage in these societies, that they must do things in order to make themselves sufficient. Let us get away from the fact, that success—because I am saying this, and I continue to say this. The area in which I live, I hope I do not have to do like some Ministers when the pressure comes on me and have to move out. I hope I will stay on that land, I will develop it, make it bigger, make it better, and be an inspiration to the people around me. I ask God to give me that strength.

There is another point. When we are talking about squatting, regularising land—I would like somebody to answer this. Do you know there are a number of big businesses squatting in this country? Madam Presiding Officer, there are a number of big businesses not regularised. Some of them putting down roads at will, doing things at will, pushing people away, people who have their homes they are moving them away regardless. What is this Government doing about that?

They know some of the businesses we speak about—some of them as you go off some of the beautiful highways that the PNM Government built, that they are trying to fix and cannot fix and creating more chaos on the road; next to people's land which is sliding, next to squatters land, spending more and more money and cannot fix it—putting down sand and plastic on top of it and it is slipping away and causing chaos on the road, for people who have to go and come from good land and squatters land. We are asking you to look at that. Those big businesses that are squatting, what are you going to do with them? How are you going to deal with them? The question is just asked and I know the hon. Minister would answer.

Madam Presiding Officer, there are a number of private lands. One of the things I looked at when I was growing up, the whole of Laventille and Morvant and all these places, are really owned by private owners. I do not know how they got all that land, but they got it. They still have it; all along the Eastern Main Road one person owns the land, they still have it. I have no objection to that. If a man has all this land, that is his business, I wish him well.

But where there are squatters on private lands—a number of these squatters on private lands, what we call squatters or people living—I do not like to see them as squatters, because people must get a place to live; and I feel it is better if a man could go and build something somewhere, than to go on the road and live—and I have seen areas that are supposed to be squatting areas in Morvant, that are some of the best houses in the area. A lot of these people live with a lot of pride and a lot of feeling; because it is difficult when you come from a certain area you are branded a certain way. I would like to feel that you should not be branded because you are from a certain area. I should not have to run from an area because I feel I would be branded. This is the strength we want to give to people.

But, my point is, on these private lands what are we going to be doing? Are we going to find a way to regularise these people's situation? People need deeds too. The thing about land is really a deed in your hand. If you have all the land in the world, or all the land in Port of Spain, and you do not have a deed, where you can go to a bank and ask to borrow money, where you can go and ask to educate your child—I want to send my son to university, he might be bright—it is the deed that is the important thing.

I want to ask this Government, what are you going to do about people's deeds? What is the sense giving me land, and you are not giving me the deed?. What is the sense in giving me land and you are not giving me bargaining power?

With this land, I want to ensure that with the deed that I am given, I could do business.*[Desk thumping]*.

The point is, in a lot of these areas you call squatting areas—you may not notice it, but the best cricketers, the best dancers, the best of all kinds of personalities come from there. As a matter of fact, the very pressure inside there, is what causes people to want to do better, and want to be good.

We are producing brilliant children with four and five passes. I got a resumé from a child with seven 1s coming from a squatting area. What are we to say to that child? The parents might want to send her to be educated, where is the deed for this land? Would you give them a deed so that they could send this child to further his/her education? Give them the edge. Do not talk about giving land to people as though it is a political thing. Do it in such a way as to enhance people's position, and to make people better.

They would get up and say that the PNM should have done that. But we have done so much of that, all over Trinidad and Tobago. Do not forget. If we were not doing this—this Government feels that Trinidad people are dumb. Why would people keep a Government—you see, they have us down as foolish; Laventille people and all the people who vote for PNM as stupid people.

Why would we keep a government in power for 35 years? They did nothing for us, we are fools. I am saying that is not so. They were promised, they were given things, they are still being given things, and when we come back into power, because of how we see this Government operating, they would be given more things. It is understandable.

What they are saying is, that nothing was given. You see, the reason it seems that nothing was given is, because we did not go to our area and build all the roads, Madam Presiding Officer, we did not go to our area and give all the houses, we gave equitably.*[Desk thumping]*. We did not take the industrial centre from La Brea and not look for a place, we brought it to our constituency—

**Sen. Gabriel:** I rise on a point of order, Madam Presiding Officer. The Member is clearly being irrelevant to the matter under section 35(1). I seek your ruling Madam Presiding Officer.*[Laughter]*.

**Madam Presiding Officer:** Sen Shabazz, we always enjoy listening to you. Let them calm down, and return to the Bill.

**Sen. M. Shabazz:** Thank you.*[Laughter]*.

Madam Presiding Officer, that is the Senator who sent the note to me. I like to call him the “senator of irrelevance”. [*Desk Thumping*]. It is the best speech he has given in this House. It is the best speech that he continues to give in this House, section 35.

As a matter of fact, when I am speaking about him at home, just as a side thing Madam Presiding Officer, I always tell my wife about section 35 referring to my dear friend, as section 35(1), the Senator of irrelevance. But go ahead, I understand and appreciate that. [*Laughter*].

What we are saying is, that we gave to all the areas. We developed land, and I would like to ask them to continue in that spirit—develop land in all the areas, to all the people equitably as you have said here. At the end of the day if you do it equitably—and I want to ask the hon. Minister that, if you do it equitably. Mr. John Humphrey, hon. Minister of Housing and Settlements, you would regain some of that respect that you seem to be losing in the communities at this point in time. You were always that type of person. Do not let them bend you to lose that respect. I want to say, that is indeed relevant. I am asking you.

I want us to go further and say—I think I can wind down on this point here. This question of how are we going to give out the land? The kind of power put into the Minister’s hands to select settlements could have a certain political implication in it.

As a matter of fact, Madam Presiding Officer, where this Minister puts land could determine what happens in constituencies, and who they bring into these constituencies. Somehow there seems to be a plot to put some of these housing areas—give these regularisation programmes into a lot of PNM areas, bringing into those areas a lot of their friends and supporters. They appear to be doing that.

I want to go further, and make the point, when we talk about giving land, and I said it before, we gave land to everybody, regardless of creed, race, class. This point was made on Saturday, April 11, 1998, page 13 of the *Independent*—“Manning sees UNC plot to take San Fernando East”. And he went on to speak about squatters, or people that were brought into a regularisation programme in San Fernando East.

**7.20 p.m.**

I am retracking a bit. In 1986, when the NAR/UNC government came into power, it was this Minister of Housing who really told the people land was for



them. I could never forget. People started to flood all areas, taking the best land, and going “crazy”. It is because of the sayings and utterances of this hon. Minister that it happened. People who were and were not squatting, just began to capture lands. As a matter of fact, right behind where I live—where they have now built the Almond Drive houses—the area was flooded with squatters. When you asked them “What happened?” They said “Humphrey said you could take land anywhere.” They took and they are still taking land anywhere. I can tell you of a number of housing areas which resulted from the statement in 1986 “Take land anywhere”.

Eventually, this created a big problem. They had to find ways to remove these people, put pressure on them, or find ways to get some of these people—well, I cannot even say “into houses” because it is when the PNM returned to power that we got houses for them, got them regularised, and settled, in a certain way. *[Interruption]* Somebody is asking if I am dreaming. Indeed, if I am dreaming, I am following in the footsteps of one of the greatest dreamers on that side, the Minister of Housing and Settlements. *[Desk thumping]* He is one who dreams of all—before Sen. Cabrera gets up, let me be quiet—but I am following in the footsteps of that dreamer. So what went on, they took people into that area, and we must look at that.

As I said before, we gave land to all. I have no objection to who gets land, but the policy of a government must be to be fair to all. We must be a government of all, for all, and by all. As I have said before, we must not be a government of a people, for a people, and by a people—the direction in which this regime seems to be heading. Mr. Sudama said, “If previously East Indians were not given preference at all and you now have a policy of equal treatment, it is likely that people of East Indian descent would be given consideration, as well as other people, if you are going to bring about a system of equity”.

We are saying, again, give to all: East Indians, Chinese—I do not know what you call me, I call myself an African, but whatever you want to call me: a descent, whatever. I am an African—but give land to all: East Indians, Chinese, Africans, Whites—all who deserve it, as long as they are under-privileged in this country. Follow the policies and the programmes of the People’s National Movement. *[Desk thumping]*

**Sen. Cabrera:** Madam Presiding Officer, I am forced to rise again. Clearly, this again is irrelevance.

**Madam Presiding Officer:** Sen. Shabazz, we are hours late. I do appeal to you to wait until closer to elections, and let us get back to the Bill. You have five minutes.

**Sen. M. Shabazz:** Yes, Madam Presiding Officer.

**Hon. Senator:** You are entertaining.

**Sen. M. Shabazz:** Madam Presiding Officer, they may say this is entertaining, but it is serious business; it is indeed the business of the people. *[Desk thumping]* Some, when we talk, may laugh and smile; but this is the business of the people. When I walk out there, I am facing these people. I have to pass squatters to go home and they have to pass my home to go home. Those people whom they call “squatters” are my friends, I have to deal with them and ensure that I make their cases and put forward their issues very, very seriously. *[Desk thumping]*

We could talk serious business whilst we are smiling. I do not want to be smiling and not serious, or playing I am serious; but at the end of the day I only talk about squatter regularisation, talk about making the people better, and do nothing.

Madam Presiding Officer, through you, I would like to ask the Minister to put proper infrastructure—and this is on a serious note—for the people; give them deeds and proper tenure for their lands so they would be able to use their land deeds to make their positions better. I call upon the hon. Minister to do that. I know that in the Bill, it will be done. Also, do it in such a way that if people are going to sell their homes—free it up at some time. Do not leave it for 199 years, or leave it to the Minister, or the land co-ordinator to determine what their homes and lands would cost. Free it up as quickly as you could so people would be able to sell their homes at the prices that they would be worth at that point in time.

I am also asking that at some point in time people be given the right to build businesses and to do things on the land.

**Sen. Cuffie-Dowlal:** But it is in the Bill.

**Sen. M. Shabazz:** If it is in the Bill, I would like the hon. Minister to explain because—I have a problem with the Bill, Madam Presiding Officer, because of the number of amendments; the number of new Bills that keep coming in—whilst I have been sitting here approximately five amendments have come in; a new Bill has come in. So what I had prepared to say—that is what they are doing.

I do not want them to do the land regularisation business of the people in an *ad hoc* manner. This is what I am asking; this is what I am serious about. While you are going to give them the land deed, do not say: “Well, we did not set up this department to do it so the department you have to go to is not there, but give us”—hence by the time you come out of Government, what you had intended to do is indeed not done. This is what I am asking. This is what I am serious about. I am very serious about it. As a representative of the people—in a certain way—I must take to this issue seriously. I am not an elected representative, but this is a serious matter. I am not a trade union representative representing a body but this is a serious matter.

I represent the people— *[Interruption]* You and I represent Laventille in a certain way, Madam. If you forget that, I will not. I will not allow party lines to stop you, Fitzgerald Hinds, myself, from representing the people. *[Desk thumping]* Party lines will not move me from that. And I just want to say, through you, Madam Presiding Officer, if you are not careful Sen. Baksh will come and take your representation in Laventille; he cannot take ours because we are strongly defending it.

Madam Presiding Officer, on these notes, having made all these points, I would really like the hon. Minister to look at them and to make his comments on them, and to say what the position is. I advise the hon. Minister, to try to do the things that this Bill calls upon him to do, because after elections, he may not have the chance.

Thank you, Madam Presiding Officer.

#### ADJOURNMENT

**The Minister of Finance (Sen. The Hon. Brian Kuei Tung):** Madam Presiding Officer, I beg to move that this honourable House be adjourned to Tuesday, September 15, 1988 at 10.00 a.m. I would like to indicate that at that time we will complete this Bill on Squatter Regularisation, as it is called. If we do have time, we will proceed to, “An Act to Amend the Dental Profession,” and there is a possibility—I may as well do the amendments that come from the House of Representatives on the International War Crimes Tribunal Bill—if I can get the hon. Attorney General to do it for us.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 7.30 p.m.*