

*Leave of Absence**Tuesday, November, 02 1999***SENATE***Tuesday, November 02, 1999*

The Senate met at 1.30 p.m.

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

Mr. President: Hon. Senators, leave of absence has been granted to the following Senators: Sen. Brig. The Hon. Joseph Theodore from November 2—8, 1999; Sen. Philip Hamel-Smith from November 2—8, 1999; Sen. Danny Montano from November 2—12, 1999; and Sen. Prof. Kenneth Ramchand from November 2—6, 1999.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following communication from His Excellency the President of the Republic of Trinidad and Tobago:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,
S.C., President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MR. KELVIN RAMNATH

WHEREAS Senator Joseph Theodore is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KELVIN RAMNATH, to be temporarily a member of the Senate, with effect from 2nd November, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Joseph Theodore.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 1st day of November, 1999.”

Senators' Appointment
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“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C.,
O.C.C., S.C., President and Commander-in-Chief of
the Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MR. DAVE COWIE

WHEREAS Senator Philip Hamel-Smith is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVE COWIE, to be temporarily a member of the Senate, with effect from 2nd November, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Philip Hamel-Smith.

Given under my Hand and the Seal of the President of the
Republic of Trinidad and Tobago at the Office of the
President, St. Ann's, this 29th day of October, 1999.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Temporary Senator

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,
S.C., President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MISS CARLENE BELMONTES

WHEREAS Senator Danny Montano is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, CARLENE BELMONTES, to be temporarily a member of the Senate, with immediate effect

and continuing during the absence from Trinidad and Tobago of the said Senator Danny Montano.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 2nd day of November, 1999."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C., S.C., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MR. KENNETH AYOUNG-CHEE

WHEREAS Senator Professor Kenneth Ramchand is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KENNETH AYOUNG-CHEE, to be temporarily a member of the Senate, with effect from 2nd November, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Kenneth Ramchand.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 1st day of November, 1999."

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Kelvin Ramnath, Dave Cowie, Carlene Belmontes, Kenneth AyounG-Chee.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Siparia Regional Corporation for the year ended December 31, 1994. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Siparia Regional Corporation for the year ended December 31, 1995. [*Hon. W. Mark*]
3. Annual audited financial statements of Metal Industries Company Limited for the year ended December 31, 1997. [*Hon. W. Mark*]
 Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Project Execution Unit of the Ministry of Housing and Settlements in respect of the National Settlements Programme for the period January 01, 1998 to September 30, 1998 as required by Loan Contract No. 584/OC-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*Hon. W. Mark*]
4. The Doctrine of the Separation of Powers;
 The Independence of the Judiciary;
 The Obligation of Accountability;
 The Facts of the Matters raised by the Chief Justice on September 16, 1999. [*Hon. W. Mark*]
6. The Report of the Task Force established to deal with the problem of asbestos in schools. [*Hon. W. Mark*]

CONSERVATION OF WILDLIFE (NO. 2) BILL

Bill to make provision for the conservation of wildlife in Trinidad and Tobago and for matters connected therewith and incidental thereto, [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

Motion made, That the next stage of the Bill be taken at the next sitting of the Senate. [*Hon. W. Mark*]

Question put and agreed to.

NATIONAL PARKS AND OTHER PROTECTED AREAS (NO. 2) BILL

Bill to provide for the conservation, preservation, protection and management of designated national parks and other protected areas, for the regulation of the scientific, economic, recreational, educational use of these areas, for the establishment of a Protected Areas and Wildlife Authority and a Protected Areas and Wildlife Conservation Fund and for matters connected therewith, [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

Motion made, That the next stage of the Bill be taken at the next sitting of the Senate. [*Hon. W. Mark*]

Question put and agreed to.

NATIONAL TRUST (AMDT.) (NO. 2) BILL

Order for second reading read.

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, I beg to move,

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

The purpose of the Bill is to effect miscellaneous amendments to the National Trust of Trinidad and Tobago Act, 1991, so as to fill various lacunae in the law and, thus, complete the Act prior to its proclamation.

The Act was assented to on August 14, 1991 and it provides, at section 12, that the Act shall come into operation on a date to be fixed by the President by proclamation. The Act establishes the National Trust of Trinidad and Tobago as a body corporate with responsibility, *inter alia*, for the following:

- (a) listing and acquiring properties of interest, including monuments, fossils, places or sites of natural beauty, or natural, historical or archaeological interest; and
- (b) advising the Government on the conservation and preservation of property of interest.

1.45 p.m.

The Act also confers on the trust extensive powers to deal with listed property subject to the approval of the Minister and to the rights of appeal by persons aggrieved. It is appropriate, Mr. President, that we pass this legislation to protect our heritage before the dawn of the third millennium.

If we look a little at the history, the 1991 Act contained certain errors, certain omissions and lacunae which needed correction. Some of these were firstly, the need for improvement in wording and structure of subsections and correction of typographical errors. Secondly, the need for clarification of the power to constitute the trust, guardian of listed monuments, especially if the monument is occupied as a dwelling house. Thirdly, there were problems with the size and

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composition of the council. Fourthly, the Act was silent on the issue of resignation and/or removal of council members. Next, there was need for clear distinction between the subcommittees of the trust and advisory committees of experts. There was need for provision for exemption from personal liability of council members, and finally, there was need for the inclusion of local works of art in exemptions from taxes and duties.

Mr. President, there is, indeed, no question as to the need for this Bill, this piece of legislation, to protect the country's rich and varied national heritage which is vulnerable to destruction and which includes a range of items. There are works of nature such as swamps and wetlands, wildlife, forests, rivers and streams, exotic trees, parks and playing fields. There are works of man such as our built heritage, our tropical architecture, our monuments of historic antiquity, our outstanding architectural creations by our past and present inhabitants. There are also sites of historical significance, and these are structures that have played a part in our national development.

All of these, Mr. President, are subject to danger and destruction if not protected. Such danger and destruction may be effected by deterioration and disappearance with the passage of time or by attempts by individuals to profit by destroying or exporting items or claiming them for private gain, thus impoverishing the society. Also, by the removal to foreign lands of precious pieces of pottery or stone, other materials or artefacts that would otherwise accurately reveal our Amerindian history.

If we look at the history of the Act and the amendment Bills, Mr. President, we note that in 1991 the NAR government successfully piloted this legislation which was assented to on August 14, 1991, but because of the problems already identified, the Act was not proclaimed. On March 31, 1994, a committee was appointed by the succeeding government comprising representatives of special interest groups and professionals involved in the physical aspects of the cultural heritage of Trinidad and Tobago to review the Act.

Upon completion of this exercise, such amendments as the committee recommended were to be enacted and the trust was to be made operational. In its report of May 1995, the committee recommended that certain amendments to the Act be made, but no action was taken. In December 1995, the new Cabinet appointed an interministerial committee which met between January to May 1996 to examine Acts passed by Parliament but not yet proclaimed. Included on that list of unproclaimed Acts of Parliament was the National Trust of Trinidad and Tobago Act, 1991.

The committee, in its report dated May, 1996 recommended that the Act be amended prior to proclamation. Continuing by way of history, in November, 1997, a Bill to amend the National Trust of Trinidad and Tobago was brought before the Parliament and subsequently debated at a sitting of the Senate held on Tuesday March 10, 1998. The Senate adopted a Motion moved by the Leader of Government Business that a select committee of the Senate be appointed to consider and report on the bill.

The select committee met on several occasions between March 24 and May 6, 1998. Its main focus of discussion surrounded three broad areas. One was the definition of the National Trust, second was the composition and functioning of the council, and third was the overlap in jurisdiction between the National Trust and various other organizations and agencies.

In carrying out the committee's mandate, a comparison of National Trust legislation in various jurisdictions was compiled and studied. The undertaking of this task gave the committee a base from which to proceed. The committee also sought and obtained written and oral submissions from various experts, as well as from the general public. Thereafter, a number of organizations were invited to sittings of the committee to assist in its deliberations.

Concerns were raised by most representatives relating to the composition of the council and overlap in jurisdiction between the National Trust and various organizations or agencies. The committee recommended six modifications or elaborations to the 1991 Bill. The Senate committee submitted its report dated July 10, 1998 containing recommendations of the committee, but in the interim, the Bill lapsed. The Bill was subsequently amended in accordance with the recommendations of the select committee and reintroduced into Parliament.

Mr. President, I will now look at the provisions of the National Trust (Amdt.) Bill (No.2), 1999. Clause 1 of the Bill provides the short title and clause 2 defines the Act. The Act here refers to the National Trust of Trinidad and Tobago Act, 1991. Clause 3 amends section 8 of the Act. Minor changes are made in section 8(a) and section 8(b) introduces a register.

Clause 3(a) deals with just minor changes in the numbering of sections, and subclause (b) introduces a register, which is new; it was not in the original Act. Subclause (c) establishes the procedure by which the trust shall notify the owner of property or, if the owner is unknown, the general public of the listing of property. Mr. President, this is one of the issues, which did create some debate and discussion in the original Bill of 1997.

The Act provides in clause 3(c) certain procedures for the notification of properties being listed by the trust; whether the properties are owned by persons known or unknown. It provides for posting the notices in conspicuous places as well as in the press.

Clause 4 repeals and replaces section 9 of the Act. The amendment sets out the procedure to be followed where the owner is aggrieved by the listing of the property of the trust. Again, Mr. President, this was an area which gained a great deal of debate in terms of the right of the property owner to have an avenue for expression of disagreement with the trust. Where a person is aggrieved by the listing of any property, there is a certain procedure which must be undertaken. Clause 4 provides this.

Within three months of the date of the listing, there should be appeal to the Minister in writing against the listing, setting out the grounds for the appeal. The Minister may then consider the appeal within six weeks of its submission in writing and may dismiss or may direct the trust to revoke the listing. This, Mr. President, allows the owner of property some avenue of redress.

Subsection 3 of clause 4 states:

“Where the Minister dismisses an appeal made to him under subsection (1), the person aggrieved by the listing may, by originating summons served on the trust and the Minister, appeal to a Judge in Chambers...”

So, clause 4 allows the owner of property all the rights right up to a Judge in Chambers if he disagrees with the listing.

Clause 5 amends section 10 of the Act which stipulates the requirements to be fulfilled where property is occupied as a dwelling house, and the trust proposes to become guardian of the said property. This was another issue of great debate where the rights of the occupier of the property were to be taken into account. Clause 5, therefore, clearly states:

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

- (a) arrangements satisfactory to the trust are made for the continuing occupation of the property as a residence by the owner; or
- (b) the owner agrees in writing to give the trust vacant possession of the property.”

Clause 6 effects four amendments to section 12 of the Act and inserts a new subsection (7A). This clause creates the council which is responsible for the administration of the trust. In subsection (2) of this said section 12, this is amended by increasing the membership of the council from nine to 11. In the original Act, the membership of the council was nine, it is now increased to 11 with a Minister appointing six of the 11 members.

2.00 p.m.

Section 12(4) is amended by extending the selection pool from which appointed members of the council can be selected, that is:

“...the appointed members of the Council, three of whom shall be members of associations, agencies or institutions which have among their stated objects, objects which are similar to the purposes of the Trust...”

This subsection extends the pool from which members can be selected. It also makes express provision for the representation of the interest of Tobago.

Section 12(6) is amended to make express provision for the chairman of the council to be appointed by the Minister.

Section 12(7) is amended to increase the quorum of members to six.

A new subsection (7A) is inserted. This is to include that the decisions of the council are to be taken by a two-thirds majority vote.

Mr. President, there was a very great deal of discussion on the composition of this council and the predominance of members who are nominated by the Minister. In order to put some balance in this, a decision was taken that all decisions of the council will be taken by a two-thirds majority vote.

Clause 7 is inserted as a new subclause in this Bill. Clause 7 again, inserts a new section; namely section 12A, which sets out the procedure for the resignation and removal of members of the council. This was not in the original Act.

Clause 8 repeals and replaces section 13(1) of the Act. The new section 13(1) recognizes and addresses the need to make clear distinction between working sub-committees of the trust and advisory committees of experts. The council is now empowered to appoint standing advisory committees to represent specific interests and working sub-committees as it sees fit.

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Clause 9 inserts two new sections. Section 15A exempts the members of the council from personal liability for any act or omission executed in good faith in the course of the operation of the trust.

Section 15B sets out the arrangements which the trust may have with other entities whose operations may overlap with those of the trust and permits the creation of memoranda of understanding between these entities. This is indeed a new subsection introduced in the Bill. It was found, during the debates and discussions, that the responsibilities of the trust overlap with a number of other agencies including the Environmental Management Authority certain aspects of our culture and others. Section 15B is inserted as arrangements with other entities. Section 15B provides for the creation of memoranda of understanding or other arrangements which may develop between the trust and other entities.

Clause 10 exempts the trust from certain taxes and duties on goods imported for its official use and works of art originating in Trinidad and Tobago.

Clause 11 amends the Second Schedule in regulation 4, by correcting typographical errors.

Mr. President, these are the provisions of the National Trust (Amdt.) (No. 2) Bill.

Sen. Prof. Spence: I would like the hon. Minister to explain in the two-thirds majority decision: whether this means two-thirds of those present at a particular meeting or two-thirds of the membership of the council.

Sen. Dr. The Hon. D. Phillips: Clause 6(e) states:

“...decisions of the Council shall be taken by a two-thirds majority vote.”

The quorum for a meeting is six. I could be corrected, but it seems to me that what we mean here is two-thirds of those who are present, but we shall check the legal advice on that when we come to the committee stage.

Mr. President, I have not gone into detail into the origin of the Bill and all the ramifications that took place from 1991—1999, eight years, because this Bill, of course, has been debated in this House and the other place on many occasions. I have concentrated, largely, on the amendments which were introduced in 1997 and those which were added, following the Senate Committee’s recommendation in 1998. Members are acquainted with the need for national trust legislation, with the fact that those concerned with conservation and cultural and national heritage are very anxious to have some form of legislation to protect our natural and built

heritage. These are the provisions in the 1997 Bill (No. 1), which are incorporated into this 1999 (Amdt.) (No.2) Bill.

We hope these changes, particularly, to the construction and restructure of the council, the provision of a two-thirds majority for each decision and the issue of overlapping with a number of different jurisdictions are properly addressed in this Bill.

Sen. Prof. Spence: Mr. President, if I could just ask the hon. Minister again related to the same point, the number of members of the council has been increased to 11 but the quorum has not been changed that—[Interruption]

Sen. Dr. The Hon. D. Phillips: From five to six persons.

Sen. Prof. Spence: Thank you.

Sen. Dr. The Hon. D. Phillips: Mr. President, I beg to move.

Question proposed.

2.10 p.m.

Sen. Nafeesa Mohammed: Mr. president, last week when we met in this chamber I did not have the opportunity to formally congratulate my parliamentary colleague, Sen. Vimala Tota-Maharaj, on her recent elevation to a junior minister in the Ministry of Health. I know as a young woman involved in politics, and now as a woman serving in such an important ministry, that Sen. Tota-Maharaj will do all within her capabilities and powers to ensure that basic health care is made available to all the citizens of Trinidad and Tobago. I am even more confident that she will do all within her powers to promote the issues that affect women, particularly in relation to health matters.

I also take this opportunity to congratulate and welcome the new Minister in charge of troubleshooting, the Hon. Sen. Lindsay Gillette. This afternoon when I came here and I saw Mr. Kelvin Ramnath and I did not see Sen. Gillette, for a moment I thought Mr. Ramnath would, in fact, be rightfully occupying a place on the Front Benches of the Parliament, where he should have been for some time now.

Mr. President, I would like to say that with respect to the Bill that is before us, the National Trust (Amdt.) (No. 2) Bill, I consider it a privilege indeed, to have been allowed to serve on the committee that deliberated on these amendments over the last year or so. It was a very good experience to work with the hon. Minister of Culture and Gender Affairs on this particular committee which had been appointed early last year, I think it was in March, 1998. I know that we had several meetings, we met with several organizations, and several individuals, but

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it is rather unfortunate that throughout our deliberations on this particular Bill and the amendments to the National Trust Act, 1991, that statements are persistently made about the delay and the time-lag involved with the implementation of this particular piece of legislation. I do not think that any political party should bear the blame on this issue, because the present administration, after four years in government—just like the previous government that took four years with the legislation as well—would have now realized the difficulties associated with this particular piece of legislation. now that Sen. Gillette is on board, perhaps he might be able to clear some of the logjam.

I would just like to say or repeat a phrase that we often hear, “that those who live in glass houses must not throw stones”. *[Interruption]* Or even pave with stones. I say this especially in light of recent comments made by the hon. Minister of Culture and Gender affairs. We on this side have been saying for some time that under this UNC government we have been seeing signs of a creeping dictatorship, which now seems to be galloping. Mr. President, there has been talk about who will create a police state, but we are going even beyond a police state as our rights are persistently being encroached upon and very important institutions in our country are being attacked.

Mr. President, when we started our deliberations on the amendments to the National Trust Act one of the issues that arose dealt with the infringement of people's property rights in relation to this particular piece of legislation. I recall in the debate the hon. Attorney General was brought in to defend the concerns that had been expressed.

We know that in the Parent Act of 1991, extensive provisions had been made for the listing of buildings, and these are elaborated on in the Schedule. There has been that concern that if the trust decides to list a building, what if the owner of a property does not wish to comply or become part of whatever attempts are made at preserving that particular building? What if the owner did not wish to become part of that, what rights does he have? Fortunately, in the deliberations that took place, I think an attempt was made to strengthen or at least to have some safeguards in the sense that, in the event of a person being aggrieved there would be some appellate procedures and, in fact, certain time frames have been inserted.

Mr. President, the hon. Minister attempted to give an idea of the background of this particular Bill. It has been quite a colourful background indeed. I think she indicated that it was in 1991 that the Act was passed in both Houses of Parliament during the time of the NAR administration and I think credit must be given, particularly to the former minister, Jennifer Johnson, who had piloted this

particular piece of legislation in the Parliament. The Bill was assented to in August, 1991. As we all have now realized, there have been certain very practical difficulties or obstacles in the way of the implementation of this particular piece of legislation. That is why, for some eight years now, this Bill is still in the stage of a Bill with these amendments; the Act is not yet in force.

Mr. President, one of the burning issues that arose in our deliberations had to do with the composition of the National Trust. On this issue, I think at the end of the day, there was some kind of consensus that we needed to have a healthy mix or balance in terms of the composition of the trust. In the 1991 Act, section 12 provided for the establishment of a council that would administer the affairs of the National Trust that would have consisted of five elected and four appointed members, except that the first council shall consist of nine appointed members. Now, in the amendment relating to section 12 of the 1991 Act, which one would find as clause 6 in the Bill that is before us today, an attempt has been made to change the composition by increasing the number of appointed members from four to six and increasing the composition of the first council from nine appointed members to 11 appointed members.

Now, this sparked a lot of controversy during the discussions because there were several groups that had, in fact, been invited to participate in the deliberations and there were those who felt that in order for this trust to be able to be effective and efficient in its operations, and in order for it to be able to raise funds and what have you, the control of the trust should be left in the hands of the private citizens or members who would make up the trust.

Then, there was another argument. When one is dealing with the National Trust where one is talking about the preservation of our heritage: be it our natural heritage, be it our heritage as it relates to buildings, artefacts or what have you, this would also include such things as public buildings, *et cetera*, and therefore, one needed to have some kind of representation from those agencies that would be involved in the operations of these buildings.

This brought us to another contentious issue and that was in relation to the overlapping of jurisdiction. I think that was one of the really important issues that arose. Mr. President, let me give you an example. This National Trust Act was passed in the middle of 1991, at which time in our country there was no environmental management authority in existence. We all know that the Environmental Management Authority came into being in 1995. Under the legislation that established the Environmental Management Authority, one would see that the Environmental Management Authority is responsible for our natural

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resources and certainly, that overlaps with the whole notion of preserving our natural heritage, which is a significant part of the 1991 Act. When one looks at section 5 of the 1991 Act, it deals with the general purposes of the Trust. It talks about permanently preserving lands that are property of interest and as far as practicable retaining their natural features and conserving the animal and plant life. So that, we have a situation where there is this problem of overlapping.

I mentioned just now the overlap with the Environmental Management Authority, but we also have overlap with the Ministry of Agriculture, Land and Marine Resources. We all know that the Ministry of Agriculture, Land and Marine Resources is responsible for our forests, it is responsible for our parks, and that includes the Queen's Park Savannah. Mr. President, we know what has been happening. We do not know who is taking charge of what!

Sometime ago a National Wildlife Park Bill was laid in this Parliament and then it was either withdrawn or allowed to lapse and we got it back today. But the point is, that there is one agency now dealing with our national parks and we know that in dealing with trusts or the establishment of trusts in so many other parts of the world, there is a tendency for these trusts to also deal with parks and other aspects of our natural heritage.

So that, when this issue arose, we sought to look at legislation establishing trusts in various parts of the world: Australia, New Zealand, England. We looked at legislation in Barbados and Jamaica, I think we even looked at the Cayman Islands. At the end of the day, at least on our side, we were advocating that there be a hybrid position. The Jamaican model and the Barbados model, I think, were very attractive to us. I think in Jamaica, in their legislation they provide for the establishment of a trust comprising of some 15 members and just by way of an example, the Jamaica National Heritage Trust Act, 1985 states:

“The Trust shall consist of fifteen members of whom—

- (a) three members shall be the Government Town Planner, the Commissioner of Lands and the Chief Executive Officer of the Trust who shall be *ex officio* members;
- (b) one member shall be a representative of the Institute of Jamaica and shall be appointed by the Minister from a panel of three persons nominated by the Board of Governors of that Institute;
- (c) one member shall be a representative of the Jamaica Historical Society and shall be appointed by the Minister from a panel of three persons nominated by that Society;

- (d) one member shall be a representative of the Jamaica Archaeological Society and shall be appointed by the Minister from a panel of three persons nominated by that Society;"

2.25 p.m.

- (e) one member shall be a representative of the University of the West Indies and shall be appointed by the Minister from a panel of three persons nominated by that body;
- (f) one member shall be a representative of the Jamaica Institute of Architects and shall be appointed by the Minister from a panel of three persons nominated by that institute; and
- (g) seven members shall be appointed by the Minister from among persons appearing to the Minister to be suitably qualified for such appointment."

In Jamaica, it is an extreme case where the Minister is in total control. We were not advocating that heavy, heavy state interference but we felt that there was need for greater state involvement in the operations of the trust, because you were dealing with people's property rights and it is for the state to safeguard the property rights of the citizens, and when the Government of the day is lapsing in that regard, we, as the official Opposition, are here to be that check and balance and to ensure that people's rights are safeguarded.

Just like the trade union movement, they have their role as well, in society, to champion the cause of the working people of any country and no Government should unduly interfere and intimidate the trade union movement. Mr. President, Sen. Wade Mark has no moral authority to say anything about that. Just like the other Senators from the trade union movement. *[Interruption]* Those who live in glass houses should not throw stones; one o'clock in the morning to go and arrest people—Mr. President, let me get back to the Bill. I am talking about political intimidation of people who legitimately stand up for the rights of the citizens of the country! They know they are guilty and it is just a matter of time because the people of Trinidad and Tobago are not stupid. They have no moral authority to talk about the rights of people!

Mr. President: Sen. Mohammed, get back to the Bill, please.

Sen. N. Mohammed: Thank you very much, Mr. President. In dealing with this issue of the overlap of jurisdiction—we discussed the overlap as it relates, for example, to the Environmental Management Authority. We looked at it in the context of other Ministries such as the Ministry of Agriculture, Land and Marine Resources and, Mr. President, the role of the Town and Country Planning

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Division is of even greater significance in all of this, because they must have a role to play.

When one is dealing with the listing of buildings, which agency of state is in a better position to give the facts as it relates to a particular building; or the background; or the ownership or what have you? You see, we do not know what is the present status of the Town and Country Planning Division. We know that there is a piece of legislation before the Parliament, the National Physical Planning and Development Bill, and when one looks at that piece of legislation it amounts to an emasculation of the Town and Country Planning Division in this country. It converts the role of the planning division and it now seeks to put that role in the hands of a National Physical Planning Commission. One has to wonder what is going to happen—because for this process to work, it is going to take a very long time. What is happening? Even with the enforcement of the regulations as they exist under the Town and Country Planning Act, we know that there is very little enforcement taking place. We do not know what is happening. In fact, I think there was even a juggling around. *[Interruption]*

Mr. President: Sen. Mohammed, I think you are moving away too much from the Bill, please get back to the Bill.

Sen. N. Mohammed: Thank you very much, Mr. President. You see the role of the Town and Country Planning Division is very important as it relates to the National Trust. It is critical, in fact. I am simply asking the question: Where and under whose jurisdiction the Town and Country Planning Division presently exists? It used to be in the Ministry of Planning and Development, now I am hearing it is under the Ministry of Housing and Settlements, so that is another area. It means, therefore, that perhaps in the trust there should be a representative from the Ministry of Housing and Settlements who would represent the Town and Country Planning Division or we do not know which of those agencies.

We also discussed the possibility of having a representative from the University of the West Indies. I think there is an archaeological society that exists in the country in the Institute of Marine Affairs. There are so many agencies that exist and there is need for some specific guidelines, therefore, in terms of ensuring that there is a healthy mix of individuals or groups represented in the operations of that trust so that we can deal with the preservation of our heritage from a very holistic point of view.

I know for a fact that with respect to this legislation, I think the Citizens for Conservation have been very much involved in the process from inception of the

NAR days. I think the Bill itself may have been drafted by them, I am not too sure, but they have been at the forefront and at the end of the day, I gather that they would have preferred to see the actual control of the trust left in the hands of just private citizens. But we are saying and still saying that we need to have a healthy mix and a healthy balance in terms of the operations of the trust.

In the amendments they have sought to increase the composition of the trust. We can only hope that this will now permit a broader representation of other interest groups and persons who would be in a position to use their expertise in relation to the preservation of our heritage.

In dealing with this problem of the overlap of jurisdiction, one of the attenuated solutions—I do not know if the word “solutions” might be too strong a word but in an attempt to deal with this problem there was an agreement that a Memorandum of Understanding should be drawn up if and when this Bill is passed. When one looks at the amendments before us this afternoon I think that matter has been dealt with in clause 9 which seeks to introduce a new clause 15B(1)—I will read it for the record.

“The Trust shall initiate consultations with other government and non-government entities performing various functions pertaining to the preservation of any property of interest or to the protection and management of the environment with the objective of formulating memoranda of understanding or other arrangements between the Trust and such other entities, which shall establish the mechanisms for co-ordination across jurisdiction lines and provide for the implementation of integrated programmes for the preservation of monuments or the protection and management of the environment.”

So we can only hope that this mechanism that has been introduced in these amendments will go some way in dealing with this problem of the overlap of jurisdiction.

As we talk about the preservation of our heritage and the establishment of a National Trust, we know that a significant part of our heritage and indeed of any trust, will be in relation to the preservation of buildings. Particularly in our country, there are several buildings that are of great historic importance in the history of our country. We know what has happened in Whitehall but today we sit in this august Chamber, and how many times have we come in to this Chamber and have been subjected to rain water leaking into the Chamber. I have seen buckets in this Chamber; it is a risk to be walking along the corridor to get to the staircase when rain is falling because one can slip and fall so easily.

Mr. President, I want to make a very strong and special appeal to the Government—right now it is the UNC in Government—and whichever Government is to come—I just hope and pray that we would be able to deal with the restoration and the preservation of the Red House in the shortest possible time. Sen. Wade Mark is smiling and I know he is concerned about the matter, too. *[Interruption]* Some time ago we knew that this restoration work was a big part of the PNM's programme for the public buildings and since they came into office we knew that they attempted some minimal work mainly in the tea-room which continues to leak even after those works. We have some—I do not know how many—pieces of tarpaulin up of the roof. Mr. President, it is matter that requires very urgent attention. Whatever is the reason or the cause for the delay, perhaps Sen. Gillette can intervene and clear the logjam wherever it is—in the Ministry of Works and Transport or Housing and Settlements, wherever the problem lies—to get the restoration works going.

2.35 p.m.

In this building there are very important artefacts, and not just artefacts, Mr. President, but if we go downstairs now we would see that there is a vault near the rotunda area that consists of some of the most important documents in our country. I refer especially to the number of deeds and other legal documents that are kept downstairs in this Red House. I speak now as an attorney-at-law, in that, any practitioner who deals with conveyancing would know the hardships that the legal profession is experiencing in dealing with land transactions nowadays, because when you request a search report the condition under which our title clerks have to operate is one issue; they were highlighted a few months ago. Quite apart from that, I have seen for myself the condition of our books, the bound volumes that contain our hundreds and thousands of deeds over the years from way back in colonial times. There are books in which the pages are just falling off.

I know that many years ago, some time in the late 70s or 80s thereabouts or from time to time, attempts had been made to preserve these important documents. From time to time, past governments have employed additional personnel to help with the binding of these books. We know that the former Minister of Legal Affairs was planning to relocate the Ministry of Legal Affairs downstairs in the Huggins Building and we cautioned this Government. We said that we were not too sure that building had the capacity and the wherewithal to store those books. I am sure that to this day they have not been able to complete those physical arrangements to have a proper storage place for the several huge volumes of books that presently exist in the vault downstairs.

In fact, with the merger of the Ministry of Legal Affairs with the Attorney General's office, we do not know what is happening with that building. Somebody made a killing out of it though, somebody profited in a big way; anyway, we will wait and see. The fact remains, Mr. President, while we know that some attempts are being made to computerize the registry downstairs, I have been hearing about this computerization for many years and there are tremendous difficulties involved in the process. While we are moving in this direction we need, at the same time, to preserve those bound volumes. If it is that the Government has plans to relocate this registry, until such time, I am asking them to please put some quick interim measures in place to deal with this. Sen. Mark, I am making a strong appeal to you to see what you can do.

This issue exists not just in relation to the Red House documents; if you go to any of the other state departments where records are kept, these are important documentary records. I have been down, for example, in the warden's office where you have to pay your land and building taxes. Mr. President, you would be shocked to see the condition of the books; as you turn the pages, some pages fall off. If you have to trace the ownership of a building or to get an assessment number, it is a real problem. If you go into the vault you would see that the storage space needs to be expanded and the books need to be bound. It has to be an on-going process. I am sure Sen. Cowie would agree with me in terms of these problems being experienced on a daily basis, because it is not just the legal profession.

Even within the banking network, anybody who has to go through with a mortgage or build a house would be subjected to tremendous delay and problems in getting the information. I am sure many people have had the experience. As far as I am aware, the records from Tobago are still kept in our Red House registry. Something needs to be done very urgently to alleviate this problem.

In the course of our deliberations—I remember there was some discussion as well—and I had heard some talk about an attempt to reform the National Archives. I do not know what is happening with that, because the National Archives is also very significant when you are talking about National Trust. Is it that we are going to continue with a separate National Archives? Is it going to be incorporated with the trust? There is need for that kind of co-ordination and we need to know what is happening with it, even the museum.

I recall the hon. Minister of Culture and Gender Affairs in her budget contribution talking about the centre for the performing arts and she made

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mention of the use of the Prince's Building grounds. It was not a conclusive thing and I am still wondering where the centre for the performing arts is going to be located. Is it in Queen's Park Savannah in the paved area, or where the North Stand was? Please come straight and tell us. After the year 2000 when you review carnival—well we do not know if they intend to ban carnival too, at the rate they are going. Mr. President, the point is that there is need for us to hear a bit more about these plans of the Government.

What is happening with the museum? What is happening with our national library? It is in the course of discussion on the national library that we have heard talks about new plans the Government has for the building. Is work going ahead with the national library? Are we going to get it before the next millennium or in the next Janaam? [*Interruption*] The next Janaam means in the next world, and we know with the UNC in power where we are headed.

Recently, I considered myself very fortunate to have been part of a delegation from the Parliament of Trinidad and Tobago to attend a Commonwealth Parliamentary Association conference in the Cayman Islands. It was an eye-opening experience to see that in such a small island with a very small number of people and few buildings, how far they have reached and how very advanced they are in terms of the preservation of their heritage, in terms of buildings and other aspects of their heritage. They have a National Trust Act as well. The Cayman Islands is still ruled under the control of the Queen, the Governor is in charge. When you look at their National Trust you would see that the Governor has a lot of say in terms of operations and the appointments in the National Trust.

The advanced stage of their work is something that I think we in Trinidad and Tobago—I felt proud as a Caribbean person to know that such great lengths were being taken to preserve our heritage in that way. I thought about our own island here, how many things we have and what little it would take for us to preserve them simply by bringing about a greater awareness and desire on the part of individuals and groups to want to preserve and protect our very rich heritage which is not just in relation to buildings, but also in terms of our national resources and, indeed, our cultural heritage.

On this note before I take my seat, I would just take this opportunity on behalf of all the Members on our side and the People's National Movement, to wish you, Mr. President, and all Members of the Senate and, indeed, everybody in Trinidad and Tobago a very happy Divali 1999.

Mr. President: I want to remind Members that in keeping with the Standing Orders, when you are referring to Ministers, you refer to them by portfolio and not by name. Sen. Mohammed you did it several times this afternoon.

Sen. Mohammed: Mr. President, it is just because I am a bit confused in recent times with the reshuffle.

Sen. Prof. Julian Kenny: Thank You. Mr. President, in my four years in the Senate, it struck me on more than one occasion that we seem to have a problem in this country of addressing an issue other than by partisan lines. Something like this is to me not a party matter; something that really goes to the soul of the nation. I am a bit distressed at the course of action taken over several years.

First of all, may I just reassure the hon. Minister that technically the amendments here are in order and would be consistent with the particular policy which the Government is following, but this does not necessarily mean that I agree with it.

Mr. President, in looking at any of this kind of legislation which is so central to the nation, we ought to look at the history of what I call the legislative streams, and herein we find the problem. I would like to just correct one point which Sen. Mohammed made and this is in the history of the National Trust. It is a fact that it started out as a bill privately drawn up by the Citizens for Conservation before the National Alliance for Reconstruction was actually functioning. This was actually drawn up by a group of citizens and their main concern was what they saw to be the continued destruction of built heritage; the continued degradation of scenic drives. For example, Lady Young Road is scenic, except that now it is littered with shacks. The North Coast Road is scenic but there are squatters all over.

It was a group of citizens who still function, who were very active in their expression of concern about part of our heritage which is alienated to paving and advertising Craven A and Du Maurier. These citizens actually got Acts from different parts of the world and got together some legal advisors, judges who worked with them, and they drafted this Bill. The NAR government adopted it and decided that they would make it an official Act of Parliament.

It is interesting, but the point Sen. Mohammed made is quite correct. When this National Trust Act was passed there was no Environmental Management Authority. The only other law or the only other laws involved with the conservation and preservation of our environment, in the broadest sense, was the Town and Country Planning Act of 1968 which, incidentally, provides any government with an awful lot of authority to do things that very few governments have actually employed, for example, the preservation of woodlands.

It is there in the 1968 Act, it could have been done. It is this National Trust Act that was meant to offer this protection. The other Act was the Forest Act which dealt with the conservation of the forests and a few other related things. So there was no Environmental Management Authority and I mention this because we have to have an understanding of where we are going and an understanding of the policy behind the implementation of the National Trust.

2.50 p.m.

As I pointed out, technically, the amendments here are perfectly in order with a policy that says the National Trust shall be essentially a Government trust. That is, the chairman or leadership of the trust is appointed by a Minister.

Mr. President, let us examine the directions from which legislation is coming, something which really disturbed me over the past four years, because I like to think that I know something about environmental legislation, and I see Bills coming here from different sources and the one thing that always disturbs me is that you get language used in one which does not appear in another way that is close to it, and yet in another one.

A property of interest might be an environmentally sensitive area under the Environmental Management Act, it might be a special interest area under the Planning and Development of Land Bill and so forth, and under the Bill which has been laid today, may be a protected area. So we are dealing with legislation which has different sources or points of growth and it is important to remind ourselves that the National Trust Act came from the bosom of the citizens of this country: it did not originate in this Parliament. This is my concern: are we adopting a policy which would effectively exclude the citizens from taking a leading role? There are people in this country who might offer the best possible leadership and will never be appointed for one reason or another. They may have the greatest talents, but it may be politically inexpedient to appoint such a person. So we have this one stream coming from the citizens, and then we have had another stream leading to legislation which has been laid which is the Planning and Development of Land Bill that overlapped quite considerably with the National Trust insofar as the listing of buildings, and that one now uses a different kind of language.

Then there is the third stream that was the Town and Country Planning Act, the Planning and Development of Land Bill. They are all essentially one stream and that has come from Government and that is part of the planning process. The

third stream comes from the Environmental Management Act, and let us not delude ourselves. The Environmental Management Act was passed because the World Bank was giving us a loan of \$100 million to have an Environmental Management Act and they lent us the money for it. That stream of legislation—and I would like to refer briefly to that legislation—came externally.

Then you have the Parks and Protected Areas Act which had been laid which is part of an Inter-American Development Bank agriculture loan. It is a conditionality that we have to set up a Parks Authority, notwithstanding the fact that we have had a rather impoverished national park system in the forestry division which goes back to the colonial past. So you have different streams coming from different directions.

Mr. President, I am not sure that the sources are actually speaking to each other. I am not sure that the Ministry of Agriculture is speaking with the Environmental Management Authority. I will just briefly refer to the Environmental Management Act and this is the one which has a preamble that talks about the development and so forth, but the last recital in the preamble says:

“And Whereas, in furtherance of its commitment, the Government is undertaking the establishment and operation of an Environmental Management Authority to co-ordinate, facilitate and oversee execution of the national environment strategy and programmes, to promote public awareness of the environmental concerns,...”

This is the overriding Act which should inform us as to where we are going and what are our policies. I emphasize that the Environmental Management Act is supposed to harmonize all the legislation.

Mr. President, the Environmental Management Authority is required by its Act to do a number of things. One of them is to develop the environment code which harmonizes all the legislation. I interpret this to mean that the legislation, when it is being drafted, is being done in consultation with the authority and secondly, that the language used is consistent with what the Environmental Management Authority devises for its environmental code.

Mr. President, if I may sound slightly critical, it is not that I am critical, it is just that the system under which we operate means that the ministries can go their own direction in bringing things to us because there is a lot of unnecessary waste of parliamentary time. I am very pleased to note—having had a quick look at the Parks and Protected Areas Bill and the Wildlife Bill—that the government or

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ministry or whoever is responsible, has taken note of a few dozen amendments to the original bill and has, in fact, modified the Bill which appears to be in the light of something which I submitted to the ministry. It is possible that it may be influenced in the direction of having a common language.

Mr. President, my major concern about this Bill is the question of the policy. As I pointed out, technically, it is perfectly okay. I do not think it is a matter of great debate because everything is consistent with the original Act. My basic concern is the policy. Does the Government of the day want extensive citizen involvement? Do we want a large trust? Do we want a few thousand members? Do we want a trust like the National Trust in the United Kingdom which is a separate body which is privately a trust governed by law but its membership is drawn from all over the United Kingdom?

Any of you who have travelled to the United Kingdom would have seen these trust properties and you can, in fact, get membership in the trust and one can go into any one of these National Trust properties. The basic question is: do we want a trust where there is a large number of people involved? Or do we want to have the kind of trust where it is largely government where council is appointed, where the chairman—that is the leadership of the trust—is really the Government appointee? What happens to the trust as we change government? Do we change the leadership of the trust? The membership of the trust may feel that they want candidate “x” but because candidate “x” is out of favour—to me it is a basic issue—do we want that kind of trust where we have government control of you, or citizen's control?

I do not like the amendments, but I have no major problems with appealing to everyone to let us get this trust established without further delay and if necessary, let us then—I thought I saw a smile from the hon. Minister. I am actually supporting the immediate establishment of the trust, but making the point to have a formula to look at it periodically so if our membership does not grow, perhaps we ought to re-examine the trust within a comparatively short period, perhaps within the first three years of the trust.

Mr. President, related to the National Trust is this thorny issue of listing of properties. Sen. Prof. Spence has offered a solution. The question of the listing of properties is something that concerns citizens, especially those who own property which may become listed. I would suggest that a good National Trust is in the interest of the citizen who owns property that might be listed, in that, if you are

unable to maintain the property, provision can be made under the trust for a grant to upgrade and maintain the property. This is possible under the National Trust Act. Frequently, we tend to look at listing as acquisition and compulsory acquisition. I do not think that it can be quite that extreme, but there is a process built into the Act. I am not really worried or concerned with the basic idea of a National Trust.

Sen. Mohammed referred to a trust which is a hybrid. The Jamaica National Trust is simply an appointed National Trust. The United Kingdom National Trust is the opposite extreme. It is a trust of several thousands, I think it is hundreds of thousands of men, and my personal view is that we really want to build a trust with a wider membership. I would like to feel that I can go there and pay my fee to become a member of that National Trust and if the fellow members thought that I had leadership potential it would not be a matter of the Minister appointing me, it would be for the trust membership to appoint me. In other words, the way it is done in the United Kingdom.

On this thorny issue of listing of property, I think the Members who worked on one of the joint select committees would remember the problem of the special majority issue which was raised with the Planning and Development of Land Bill. I was quite amazed that legislation which is drafted, the minute somebody raises the issue of the constitutional majority, you start amending the thing so that you can pass legislation without the constitutional majority.

3.05 p.m.

Now, this is again the same problem of this peculiar thing, an attitude that we get in the political life of the country about the constitutional majority. In this session legislation has already been changed because it was impossible to obtain a constitutional majority in the other place. Now, as a nation, surely we can look at issues and go beyond party lines and face these issues and say, "The requirements of the constitutional majority—which appear, incidentally, in the National Trust, because property rights were involved as stated in this preamble, 'Whereas'...—are inconsistent with the Constitution and this is really only an orange light warning you of caution ahead", so that you pay much closer attention to what is being passed.

I see no reason why a well-argued case, logically done, should not be met and agreed to by both sides of the House. This business of objecting just for the sake of objecting—now it was done in the previous Parliament and it is, presumably, going to be done again. I cannot imagine why adults who have taken an oath of office to serve the development of the nation cannot face up to the fact that there

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are certain kinds of legislation that require full and comprehensive debate and agreement.

So the question of listing was removed from another Bill because of this constitutional problem. It was retained in here. Frankly, I agree with the issue that Sen. Prof. Spence raised in an earlier debate on the National Trust where he suggested that the listing of buildings ought to be a separate function, completely detached from the trust. So that when the trust is operating it does not have the power to list that building and that building; it would only have the power to manage these listed properties. When I say manage them, ensure that they are not destroyed and, where necessary, arrange the funding to upgrade the listed property.

Now, that is a serious issue that must be dealt with. I do not know that the National Trust, as constituted here, would have the technical expertise that Sen. Prof. Spence was suggesting before. This you would probably find in a larger Ministry such as the Town and Country Planning Division of the Ministry of Planning and Development, or whatever it has become. Indeed, the Town and Country Planning Division parallel to what the Citizens for Conservation is doing, listed a number of properties in this Port of Spain area. Some of these properties have gone into dust and are now being replaced with some structures which, to my taste, do not encourage me about the future.

So there is an issue of the listing of these properties and I do not think that—in a sense, if you get the right people in the trust it is possible that they will seek advice. The Act does permit you the setting up of committees. Whether we will have the kind of relationship that now exists between, say, the Ministry of Agriculture, Land and Marine Resources and the Environmental Management Authority—which are not speaking to each other in terms of legislation—or whether the National Trust will just simply be another organization that tries to work the thing on its own, is left to be seen.

I am inclined to be of the view that you have a body of people in the public sector who may have a lot to offer in the listing of these properties and that you have a body of people in the Ministry of Planning and Development and the Ministry of Housing and Settlements. So this is an issue that will have to be addressed once this trust is established: how do we go about getting the properties listed with full consultation with the other ministries that may be involved.

Finally, Mr. President, I should like to restate a point that I made in earlier debates on the subject of the built heritage of this country. The built heritage of this country is owned partly by the state, partly by the citizens and companies.

The most important heritage building, a state-owned building—Sen. Mohammed referred to this: I would not repeat it—is a major historical architectural site. This building has been listed by the Organization of American States as one of the monuments of the Antilles.

I will just remind Sen. Mohammed that it was not her administration but a previous administration that took a piece of Victorian building ornamentation on the top of this building, removed it in the dark of night and replaced it with something which I dare not repeat. It just goes to show that governments are perfectly capable of defacing their own buildings. I think one of the very important things that—*[Interruption]*—one of the very first things—*[Interruption]*

Mr. President: Let us proceed, please.

Sen. Prof. J. Kenny: Thank you, Mr. President. I am glad to see a referee who allows me to get back into the train of thought. One of the very first tasks for the National Trust I think, I suggest, must be to get together a technical team to advise the Government about its heritage sites. Now, the Government has done a marvellous job with Whitehall. I look forward to being invited to see it but I know the restoration architect. When you drive by you see that this is the office of the Prime Minister and I think that every citizen driving by should feel a sense of pride. It is not a slum *[Desk thumping]* and we ought to be seeing this building as the other major heritage site. It is the seat of our Parliament. This thing really ought to be a building in which a citizen should be able to walk through with pride.

This, Mr. President, I suggest should be one of the first tasks of the National Trust, to set up this team simply to get the people who really are concerned with the built heritage. I do not mean just simply the buildings; there are some other things, but to get together a team of people from the trust, Citizens for Conservation, the Town and Country Planning Division and the Ministry of Housing and Settlements. They should be given a task so that within a reasonable time they should let us have a listing of the state-owned buildings and monuments with an up-to-date statement on their condition. They should simply have this available to the Government as a catalogue to guide them in determining priorities as to what will we do next, after Whitehall, with this building. Thank you, Mr. President. *[Desk thumping]*

Sen. Cynthia Alfred: *[Desk thumping]* Thank you, Mr. President, for allowing me the opportunity to speak on this amended Bill, the National Trust of

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Trinidad and Tobago (Amdt.) (No. 2) Bill of 1999. Let me say at the outset, Mr. President, lest I forget, Sen. Prof. Julian Kenny mentioned Whitehall and I would hope that it is not too late for members of, certainly the Senate, to be invited to view Whitehall. I, myself, am personally interested in our built heritage and I would really like to see what renovations were done. I hope it is not too late. Perhaps Sen. Mark will be able to put something in place so that we will all be invited to look at Whitehall. I am really anxious to see what it looks like strictly from a lover of architecture point of view.

Mr. President, the point has been made. The hon. Minister mentioned that the original Bill, of course, was passed in 1991 and I must say at this stage that the PNM has, indeed, been always interested in having a National Trust established. A committee was appointed in 1994 to examine the way forward in implementing the same 1991 parent Act and this committee submitted its recommendations in 1995. Of course, nothing has been done. We are at this stage now in 1999 and I hope that, by the end of this debate, the National Trust of Trinidad and Tobago would have been established once and for all.

As I mentioned a little earlier, I am passionately interested in the preservation of our heritage, of our patrimony. I spoke at some time in another place about the establishment of a Tobago Trust. That was established on October 27, 1992 where there was an agreement between the Tobago House of Assembly and a board of trustees. To date, Mr. President, that trust—well from its inception to about last year or perhaps in 1997 things were going very well. Then, for some odd reason, we found that the Tobago Trust has not been operating as it should and I did, in fact, myself take the Secretary for Education and Culture to task for not perhaps paying as much attention as he should have to the Tobago Trust.

We recognized that the Tobago trust is a very important entity in the lives of the people of Tobago in respect of the preservation of its many attributes. I do understand that about three weeks ago the trust met again, after perhaps a lapse of about a year and a half, and I will go personally into the matter to ensure that this trust continues to operate in the way that it should. While it was operating well it did quite a few things and I would like to see it operate as it is supposed to.

I noticed, Mr. President, that on a select committee appointed recently, that is the committee of the Senate, there were three persons from Tobago. Am I permitted to call their names, Mr. President?

Mr. President: Preferably not.

Sen. C. Alfred: All right. There were persons from Tobago—but I could call the positions. One of them was the Assistant Curator of the National Fine Arts Centre which was established at the Fort. It is no longer in operation and, again, I took the Secretary to task for this. I hope something is going to be done soon. However, he is now the present Curator of the National Museum and he is an outstanding artist in his own right. Another person is the legal adviser to the Tobago House of Assembly and she was also the legal adviser to the trust so that was a nice balance there. The third person was and still is the Curator of the Tobago Museum. The museum, I must add, is one of the properties of the Tobago Trust. So we have representation from persons who were *au courant* with the situation in Tobago with respect to the trust and I know that their contributions would have helped to form the amended version that we now have.

3.20 p.m.

Mr. President, I myself was privileged in 1991 to be awarded a Fellowship which I took up at the University of Florida in Gainesville. It was an eight-week Fellowship and it dealt with Preservation Institute Caribbean—normally called (PIC)—but it is Preservation Institute Caribbean. In those eight weeks, we were treated to forms of preservation and restoration of our heritage here in the Caribbean because it was mostly Caribbean people. There were other persons from North America but mostly Caribbean people from Grenada, St. Vincent, St. Lucia and so forth, and of course, from Trinidad and Tobago.

It was an eye opener because there was something I recognized. We were taken to various monuments and so forth, in various parts of Florida. I think I could say, without fear of contradiction, that as small as Tobago is, we have more to be protected, preserved and restored than those that we actually—not subjected to—saw. We were taken to places where they wanted to revisit. It was a particular fort, and in it there were persons who were dressed in the time that the fort was at its best. It was like 1800 and something and the persons there—if you spoke to them, you had to talk as if you yourself were in that period—only related to that particular period. It was a sort of gimmick but it sold itself. There are so many places in Trinidad and Tobago that we could expose to visitors and charge a sum of money. There are so many things here that we give away but, in fact, abroad you have to pay for everything, as one would know.

Mr. President, I must mention that members of the class were given special assignments. I teamed up with a young man from Saudi Arabia and what we had to deal with was “The Influence of Islamic Architecture in Trinidad and Tobago.”

At that time, I said, “Well, I have to get in touch with somebody from Trinidad and Tobago who would have an idea.” So, I called the then hon. Speaker of the House, Mr. Nizam Mohammed, and I asked him about it and so forth—and this is just an aside—but I was shocked when he spoke with the gentleman from Saudi Arabia in fluent Arabic. I was not aware that Mr. Mohammed was so gifted. Anyway, in about three days because of his involvement and intervention, we received from Trinidad and Tobago a set of slides, through his instrumentality, that we were able to use when we made our presentation.

I want to make the point also that when we are talking about Preservation Institute Caribbean, of course, we are talking about the entire Caribbean. How many of us knew then and how many of us know now, that there is a strong Islamic influence in the architecture in Trinidad and Tobago?

Mr. President, I want to mention something else and that is, the question of some of the built, as well as, the natural heritage of Tobago. Tobago is rich in its natural and built heritage. We have, of course, the Buccoo Reef and, even though, we know that certain things were not done at the time to preserve the reef better than it is now, at least, some things were done, and the reef is in a much better position than it was some time ago.

We have, of course, Fort King George and I have to mention here that in Fort King George, there is a plan afoot to do a total restoration of the Fort King George area. It is unfortunate that we are not getting the funds—I was on that committee some years ago—to really move ahead with the restoration of Fort King George because when it is done, I think one would be amazed at the beautiful site that Fort King George would be. It is beautiful now, and it would be even more so when the time comes.

Mr. President, there is the famous tombstone at Plymouth. There are sugar mills that are almost in their natural state of preservation. There is one particular place in Belmont—that is Belmont in Tobago—where I visited. It was a sugar plantation and there were these beautifully preserved arches—as beautifully preserved as one would wish. I remember the owner saying, “Whereas he would like those arches to be opened to the public, he was not interested in selling his property.” That brings me to the question of agreement in the original Bill—and I think it is mentioned in the amendment Bill as well—where people who own property have the privilege of deciding, whether in fact, their property should be listed as one of the areas where the public would view. They also retain the right

to say, "We do not want our property to be put on the list." I know that legislation is proposed here to be put in place.

Mr. President, in any case, where it is agreed between the trust and the owner that the owner may remain in his particular property, I think that is fine. I also believe that the trust should provide that owner with some funds to upkeep the building, and that the owner now should have that building open to the public perhaps, at a certain time of the year, so that it would be a sort of joint agreement.

I looked at the question of the Memoranda of Understanding. I know it had been expressed before, that there are concerns by interested groups in respect of the composition of the members of the trust and so forth but there has to be give and take. I firmly believe—and I agree with Sen. Mohammed—that the Government should have a strong say in appointing members to the trust because the Government must see to the interest of the state. As I make that point, I want to mention that in Tobago, there are at least, two buildings that I know of, that were destroyed by fire some years ago and these were historic buildings. One of them formerly housed the Division of Fisheries.

Mr. President, when it was proposed that a new building be put in place, one of the specifications was that the original stone work must be preserved, and the building must be constructed in such a way that it gives the impression of a building of some antiquity. I must admit that the original stone work was preserved and the other building, on the other side, that new owner had to agree that the stone work must also be used before he could do anything to the building, so that was agreed to.

Now there is a very lovely building—except I do not like the colour of the windows but that is just personal—and the stone work is at the bottom and that is from hundreds of years before and then we have shingle. They have used shingle for the actual structure of the building, so that we have at least, one building in Tobago that retains some of the original stone and so forth with which it was endowed.

3.30 p.m.

Mr. President, as I mentioned, there have been concerns raised by interested parties and I take the point of Sen. Prof. Kenny and Sen. Mohammed, that perhaps what is needed here is not piecemeal legislation or piecemeal arrangements; we are going to have a national trust which would be responsible for certain areas in Trinidad and Tobago. There must be co-ordination between the trust and the

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interested groups, like the Environmental Management Authority. There has to be some sort of co-ordination between the trust and organizations like the Ministry of Housing and Settlements, *et cetera*, as soon as this Bill is passed.

I agree with Sen. Prof. Kenny that there should be a meeting of the minds—well, I mean a physical meeting of all the interested parties. There must and should be dialogue. It does not make sense, after so many years of so many administrations—our government, the NAR government and the present Government—wanting to put this piece of legislation in place, that we put it in place and a few months from now, there is bickering. We do not want that. We want the trust to work. [*Desk thumping*]

We recognize that all the parties have to come together, sit and work out their areas of responsibility, and work out not only areas of responsibility, but how they are going to co-ordinate their efforts, because it was mentioned that there has been overlapping. In many institutions in Trinidad and Tobago, there is much overlapping that I think we should get rid of. Before we put anything, as soon as we have the trust established, let all these people meet and work out how they are going to operate, and let us really see that the trust is working and that all the other parties are satisfied so that we do not end up, perhaps four or five years from now, with somebody coming to say, “We have to amend this National Trust Act again, because there has not been enough co-ordination among the interested parties.”

The final point I make is: when the original Bill was passed in 1991, there was concern about a special majority. The question has been raised again and we were told that this particular amendment does not need a special majority. I am not saying that we should have a special majority or not, but I think it is only fair that our concerns should be raised still, because there are private persons who are involved in the whole business of the National Trust and where people's rights are concerned, one must seek at all levels and, especially at the level of the Government, to preserve those rights. If it is, therefore, that we need a special majority to ensure that people's rights are observed and protected, then I make the point.

I end by saying interested groups must bear something in mind. There are some interested groups that say, “Preserve everything.” One cannot preserve everything. There are beautiful old houses that can be preserved and there are beautiful old houses that cannot be preserved, perhaps because they have passed the stage where they can be preserved anymore. So, I think one has to take a middle approach.

Yes, we want the preservation of our heritage. That is most important because when we look at England, at America and all the countries outside—even St. Kitts, for instance—they are very strong on cultural historic preservation. If we look at all these countries, we must recognize that there has to be a balance. Some interest groups are almost obsessed with the part they have to play in preservation of our heritage and they go almost berserk when certain buildings are torn down.

As I said, I am interested in architecture; I am interested in the preservation of our heritage, but we have to strike a balance and realize that none of these groups or institutions can have it all its way, because individuals are involved, persons with different thinking and different personalities are involved, and if everybody were to come together to work out what is best for our country and the preservation of our heritage, then this amendment Bill of the National Trust of Trinidad and Tobago will have achieved the purpose for which it has been put in place.

I thank you, Mr. President.

Sen. Prof. John Spence: Mr. President, first of all, I say that I support strongly the idea that we need to have a proper thrust in the country to preserve our national heritage. There is absolutely no doubt in my mind about that and, because of that, and I think somewhat like Sen. Prof. Kenny, eventually, I hope that this piece of legislation is passed, even though I myself have a great deal of difficulty with the way our thrust in the preservation of our national heritage is structured by way of this legislation.

As I have said in previous discussions and debates on the National Trust Bill, I believe that we should separate the private sector initiatives, the non-governmental organization initiatives, in increasing our consciousness of the need to preserve our heritage, in providing information for the preservation of that heritage and in taking a great deal of action that only private sector organizations can take in bringing that to the full consciousness of the nation.

When it comes, however, to the listing of buildings—and that is my main concern in the way this legislation is going—I do not think that it should be the function of a private sector organization. So, what have we done? I think, to some extent, the previous two governments and this one have accepted that this function cannot be entirely left to private sector organizations, so we have come up with this hybrid. I think in this way we are getting the worst of both worlds. Because it is a National Trust Bill and it has to come under the Ministry of Culture and Gender Affairs, we have placed it in a Ministry that does not have the in-house capability of adjudicating on the functions of the National Trust.

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If we are to have a National Trust which has to do the things that this organization has to do, then in my opinion, it should be either under the function of physical planning, which is at the Ministry of Housing and Settlements now, or there might be some argument for having it attached to the Ministry of Works and Transport because that Ministry also has an interest in preservation of buildings. In fact, I believe there is an architect in the Ministry of Works and Transport who has that function exclusively to perform.

So, we have set the thing up in a way that makes it most difficult to carry out the function that it is intended to carry out, and we have lost the possibility of having a strong lobby from a non-governmental organization to influence what goes on with respect to our national heritage. This is why I say we end up by having, I think, the worst of both worlds. We have this hybrid organization that will have some influence within it from NGO sources, but because of this need to have it listing buildings, it has to have some government control.

The second point I make is that many of the buildings, I suppose more than 50 per cent of the buildings which we would want to preserve are owned by the Government. Now, are they, in fact, currently being preserved? Because the Government does not need legislation to preserve those buildings. Will the creation of legislation make any difference in that regard? What will happen, for example, if the Red House is not properly maintained and preserved? Will the National Trust set up the machinery for fining the Government? And what will happen to the fines? Will they go from one pocket into the other? In other words, here we have a poor history of maintaining our national heritage by way of government-owned buildings, notwithstanding the improvements to Whitehall. What about all the others?

Next Saturday I go to the Queen's Royal College Annual Old Boys' Dinner. I am told that one does that with some trepidation because, like some of the ceilings in this building, the ceilings need repairs. Why is Queen's Royal College not properly maintained? It is an absolute disgrace, the lack of maintenance in that school, and I feel very strongly about it because I am a Queen's Royal College old boy and the old boys try to help in whatever way they can, but the resources they can muster, go towards helping the students by providing computers, scholarships and all the rest of it, because the maintenance of the building is an expensive function that is the responsibility of the Ministry of Education.

Everybody has talked about the Red House so we do not need to talk about that, again. What about other buildings of that sort that are not maintained? What

is this legislation going to do to allow Government—with a capital G as Sen. Daly often says—not the UNC Government, but Government—So, it really is very difficult not to be cynical when one is addressing an issue like this, especially if we see it to be removing what can be the strong pressure group of an NGO which is no longer free because, to some extent, it is tied up with the membership of this National Trust. I think the organizations that have wanted to have this legislation have themselves lost.

The Citizens for Conservation should not have got involved in this sort of legislation. They should have asked to be incorporated as an Act of Parliament and maintained their independence and become a pressure group, rather than having to be tied up in this way.

What about the overlap between legislation in the different Acts? I read from the Bill—now, there is a little bit of a problem here because I do not know from which Bill I should read because the Bill with which we are presented is not the one to be presented to us shortly, but nevertheless, I assume that it will be the same in this particular regard. This is the Second Schedule of the Planning and Development of Land Bill, 1999 under “Listed Buildings:

“Notwithstanding the provisions of the National Trust of Trinidad and Tobago Act the Commission may cause to be compiled a list of buildings in Trinidad and Tobago which appear to be of special architectural or historical merit or interest, or may utilize such a list prepared by a body of persons within the meaning of subparagraph (2), and may amend, add to, or delete from any such list of buildings.”

The second paragraph states:

“For the purposes of subparagraph (1) and paragraph (10), the term ‘a body of persons’ means a body of persons, whether incorporated or not, which, in the opinion of the Commission, by reason of the professional, occupational, academic and other similar qualifications of its members, is possessed of expert knowledge about and interest in the conservation and preservation of buildings of architectural or historical merit or interest.”

Now, when I read this, it seemed to me that if this Bill is passed the Planning Commission could take the list that the National Trust had prepared and, in fact, override the National Trust by deleting and amending that list.

So I asked Sen. Daly—because I am not a lawyer—if he could explain to me what this meant. Did it indeed mean that they could take that list and alter it to override the National Trust? His reaction was, “Well, it seems to me that perhaps they could. It is uncertain.”

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Again, what are we doing? Whom do we want to list buildings? I certainly want the National Planning Commission to list and not the National Trust, but the way we are setting it up, we are going to pass this piece of legislation later this afternoon and we are going to have the National Trust listing on one hand, and then we may come back and argue about whether we want the Planning Commission to list it as well and whether we want them to be able to override the other one or not.

Surely there is some central machinery within the Government that looks at all the different bits of legislation and says, before we present them to Parliament we must make sense of them rather than having to let it be sorted out in Parliament. Was there no discussion within the Government as to what they want with these different bits of legislation?

3.45 p.m.

I came across the United Kingdom system some years ago, in fact before 1991, because I said this when the original Bill was being discussed in this House. I came across the system, which I thought was an excellent one. The National Trust in the UK is an entirely non-governmental organization, but it operates under an Act of Parliament and it consists, as Sen. Kenny has pointed out, of many hundreds of thousands of members—all who make contributions—and it receives contributions from the private sector. With that fund of money, it can purchase buildings which need to be preserved which are not being properly preserved, and it can advise the Government on which buildings, private or public, the trust considers need to be preserved, but it does not list privately owned buildings.

The listing is done by—in the case of Scotland, for example, which I happen to be aware of—the local council. It may be somewhat different in the UK. It may be a central government authority rather than the local, but not by the non-governmental organization. So, we have the National Trust which is a powerful body in Britain which exercises a lot of influence when it comes to the preservation of the national heritage, which can own buildings and maintain and manage them, but which cannot interfere with the right of private citizens. That has to be done by the government which is accountable. It is the government which is accountable to the people, not a private sector organization, or not a hybrid one which we are now going to set up under this Act.

Mr. President, I am extremely unhappy about what we are doing here. I agree that we have to do something. I am not even sure that it is a good thing to do the

wrong thing because we have to do something. *[Laughter]* I hope that in the future we will be able to make sense of what we have done and revert to the situation where the National Trust of Trinidad and Tobago, even though set up under an Act of Parliament, will have no government involvement whatsoever. It will appoint its own chairman, its own members, and not have them appointed by government. It will not have any appeal to ministers, will have no interference from ministers and, on the other hand, will not have the ability to list buildings, but will exert influence for good. Also, the listing of buildings will be done by those entities which are eventually accountable to the people of Trinidad and Tobago, namely some government department which is run by a minister or a national planning commission which comes under the aegis of a minister.

Mr. President, that is all I have to say on the issue. I am very unhappy about what we are doing. Thank you. *[Desk thumping]*

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I rise to make a few brief remarks on this amendment to the National Trust of Trinidad and Tobago (No. 2) Bill. This particular National Trust (Amdt.) (No. 2) Bill, 1999 brings back fond memories of when I was in another incarnation, because this particular issue of national heritage and the preservation of our architecture and our culture is something that I support very deeply and very sincerely, and I agree with Sen. Prof. Kenny when he made the point that on matters like these, we must find unison and it is really non-political. This is a question of the preservation and conservation of our natural heritage and architecture in our country.

Mr. President, it is a fact that in Trinidad and Tobago over the years we have not taken time off to put legislation in place and to actually ensure that we enforce the legislation in respect of our natural heritage. We have not done that. We have failed miserably as a nation in this particular regard.

I am not here to score points this evening. What I will say is that since 1970 we had at least two different drafts dealing with the National Trust and we did not get anywhere with those two drafts. It was the NAR—and we must give the NAR full marks—that brought this legislation to Parliament back in June, 1991, and they got full support. In fact, we at that time, made very concrete suggestions in terms of amendments to the legislation then, in 1991. We were in the Opposition—the United National Congress—and we made very powerful contributions. In June, 1991, the Minister of Public Administration was on that side, the Opposition Benches, and I spoke extensively. The *Hansard* would show my contribution, Sir. It is very consistent in terms of our position on this issue. As

Sen. Prof. Kenny has said, the policy has not altered. Technically, the amendments are in place. It is consistent with our policy then, as it is now.

Mr. President, because of the fact that we focus a lot on indiscriminate development in Trinidad and Tobago, industrialization of our country was an example of the “mad cap” approach that we took in destroying our environment, our natural heritage, and the cold-blooded murder and heartless approach to the destruction of the San Fernando Hill is a living example of the indiscriminate and irrational approach that we took to development in Trinidad and Tobago.

The amount of geological processes we would have lost as a result of that destruction, we will never know; whether it is the San Fernando Hill that was recklessly destroyed as a result of indiscriminate, unregulated industrialization in Trinidad and Tobago; whether it was the Caroni River; today whether it is the Aripo Savannahs where there was indiscriminate quarrying destroying all the luscious vegetation and all the different species of mammals, birds and flora and fauna in that part of the country.

Mr. President, we have a lot of history in Trinidad and Tobago but, as I said, we have not been able to preserve and conserve our history. When the Europeans first came here back in 1500, they arrived at a place called Mucurapo and we still, as we speak today, have not been able to preserve or have something to identify the first settlement, the first arrivals in the context of the Europeans.

We have San José, St. Joseph, the capital of Trinidad when the Spaniards were here, and we would know that Sir Walter Raleigh sailed up the Caroni River into St. Joseph in search of El Dorado during that period. Today, the St. Joseph River is a garbage dump. Moruga and Guayaguayare, all those areas of our country have rich historical value for our citizens and, as we seek to develop and expand our tourism industry, it is that kind of natural and cultural heritage that we could identify, Mr. President, not only to tourists who are visiting our country, but also our local citizens, our nationals here as well.

I recall it was in 1990 that a report was submitted to the then administration in office dealing with the whole question of the establishment of national parks. That came in a report since 1980 and we are now in 1999. Of course, we have a Bill before us almost about 20 years later on the establishment of national parks which could have educational, scientific, and even aesthetic value. So, the national park concept has come a little late, but it is here, and I think that we need to preserve the natural heritage of this country.

We are in support of this Bill, even though Sen. Prof. Kenny and also Sen. Spence had a little difficulty with some sections of it, because we feel we have to make a stand. This thing has been too long in the making. We do not have, as a developing nation, any legislation dealing with the National Trust, and we feel that, for instance, it has taken a long time and we have had to go back to the drawing board to make amendments to it.

We feel that we have something that could at least work at this time. We can always come back and review, revisit and revise. I think that one of the points Sen. Prof. Kenny has been labouring on is the need for the private sector and these NGO bodies to play a more progressive role in the trust. At this point in time, I see where in the amendments proposed by the hon. Minister of Culture and Gender Affairs, she is making some room for representation at that level; not maybe to satisfy all of us here at this time, but the fact is that we are seeking to bring some of these non-governmental organizations into this particular arena.

If we look at clause 6(b), we will see where:

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

So, there is, in fact, some room to have these organizations incorporated into this particular legislation.

Mr. President, in the original Act, in terms of funding, moneys were to come from the Consolidated Fund voted, of course, by the Parliament in the first instance. Therefore, because of the issue of the moneys that were to be received by the trust, although they would have been able to earn moneys in other areas of the operation, borrow money and so forth—because of the fact that public money was involved here, there was need to ensure that the Government, in this instance, had some control over this particular trust. As I said, maybe later on we could re-examine this particular piece of legislation and see to what extent we can make amendments to make it into what we probably would like to see in the future.

Prof. Spence: You say that because money was coming from Government, it had to be controlled. I was wondering if the National Carnival Commission into which you put a lot of money is similarly controlled.

Sen. The Hon. W. Mark: Mr. President, I was making the point in the context of the arguments that were being advanced here this afternoon and I was saying that in order to get this National Trust started, we have to make certain

adjustments. Of course, we have noted the contributions of Sen. Prof. Kenny and Sen. Prof. Spence, and as we proceed into the future, we can look at those things because nothing is cast in concrete and the only constant is change.

4.00 p.m.

We are hoping that as we move forward, matters raised by the Opposition and the Independent Senators could be considered right in the not too distant future, but we need to get this National Trust off the ground. It is in this context, Mr. President, I rise to give full support to the Minister of Culture and Gender Affairs and to ensure, at this time, that we get the collective support of the Parliament to get this Bill on our statute books once and for all; not only get it on our statute books but to ensure that we have enforcement. We must have enforcement and implementation in an effort to preserve and conserve our historical sites and buildings.

I think Sen. Prof. Spence made reference to restoration of historical buildings: What are we doing? Reference was made to the Parliament. There are many buildings in our country that are owned by the Government. We are making some progress; we have gotten a limited amount of money this year. We are hoping that in the year 2000/2001 we would be able to get much more so that we can target and deal with other buildings in terms of restoring them to their original pristine glory.

We have started with Whitehall, it is a small start, but we intend to continue attempting to restore—including the Red House. It is unfortunate that we have not been able to complete this exercise. The Red House is on the agenda in terms of restoring, not only Whitehall but also the Red House and other buildings, especially the “Magnificent Seven” around the Savannah. I will convey the information to the Minister of Education with respect to the collapsing roof and the dangerous ceiling that Sen. Prof. Spence made reference to at Queen’s Royal College.

Mr. President, as I said, I wanted to make a limited intervention to lend full support to this particular amendment to the National Trust (Amdt.) (No. 2) Bill, and hope that, collectively, we can rally to the support of our heritage, architecture, historical buildings and cultural heritage. As we move forward into the new century and new millennium we will be able to have, not only, on the statute books, this particular piece of legislation, but we will be able to translate it into reality and actuality as we seek to transform our society in terms of preserving and conserving our heritage which would be important—not only for national domestic tourism but also the tourism thrust that we are on to in terms of inviting foreigners to our land.

Mr. President, on behalf of Senators on this side, I also want to join my colleague, Sen. Nafeesa Mohammed, and take this opportunity to extend warmest greetings and congratulations, as we move nearer to Divali 1999, to the entire community and all of Trinidad and Tobago. We join in extending happy Divali greetings 1999 to all of Trinidad and Tobago.

Thank you, very much, Mr. President. [*Desk thumping*]

Sen. Mahadeo Jagmohan: Mr. President, I am glad for the opportunity to speak on the Bill before the Senate. I took a cue from the contributions that were made prior to my rising to speak. I am sure that I will stay within the Bill because I observed the way the discussions went. I want to assure the Leader of Government Business and Minister of Public Administration that I will hardly talk about anything in and around Port of Spain or for that matter County St. George. I will stay clear of the area of the “Magnificent Seven”, Queen’s Royal College and so forth. There are people much more competent than myself in this Senate to talk about that.

I merely wish to state, in principle, the People’s National Movement supports the National Trust (Amdt.) (No.2) Bill and would like to see certain things done to protect our national heritage. We would like to see that done. This goes beyond the realm of any political party or any particular government; this is a matter for the entire citizenry. We have heard a great deal, from the Government of the day, about the restoration of the Red House. Mr. President, with due respect, we are better off not hearing about this. Let us see some action. Let us not blame any previous government or administration. You are the Government that is in power, you spoke a lot about it and you are speaking about it, let us go—action.

Sen. Mohammed: Minister Gillette.

Sen. M. Jagmohan: I took a note when the Hon. Minister spoke about the—with respect to the Bill which is before the Senate—preservation of sites, buildings and artefacts. I wish to state that there are so many things to protect in this country that every single citizen—whether he or she comes through a government department or a non-governmental organization—has a role in this.

I get the impression, sometimes, when certain Government Ministers speak, that they are relying very heavily on non-governmental organizations. That could become very dangerous in the long run. We need their participation. The non-governmental organizations have done a great deal in protecting this country and our national heritage and so forth, but we must not depend on them more than 50 per cent of the time.

Many people do not know this: there was a very useful monument in Icacos known as “The Icacos Light House” and it fell flat into the ocean. It remains fallen up to this day. I would like to draw this to the attention of the Hon. Minister. This is one site that we should take notice of and that should be given some attention.

Up to this time, there are people who would refer to people: “Boy, girl or man you pass me like Brighton bucket: as if you do not know me.” Referring to the bucket system that there used to be at the Pitch Lake in Brighton. It was a very unique system. We have a bucket system nearby in Caracas and other places, but that was very useful and significant in Trinidad. It is no longer being used, or it no longer exists. The equipment is lying idle on the compound of the Pitch Lake at the factory. Something should be done to preserve it. I wish the Minister would take a cue, from the *Hansard*, of all the speakers and decide to put things in place. That is a natural heritage of Trinidad and Tobago and we should protect it.

The site in Fyzabad where an innocent man was mistaken for Tubal Uriah “Buzz” Butler and he paid with his life: he was shot in cold blood by the security at the time. That site is privately owned. Each year when Labour Day comes around, the labour leaders of the country have to negotiate with the owners to use the site. They would get the site cleaned up and lay wreaths. A government department would sometimes undertake the cleaning and preparation of the site. Sites like those should be acquired. There is a relationship with the labour movement and the very important history of Trinidad And Tobago.

4.10 p.m.

Another general thing that is happening in Trinidad and Tobago, very extensive excavation work is taking place for the development of industrial sites, factories and buildings and, with the kinds of magnificent equipment we have in Trinidad and Tobago which goes deep into the earth to excavate, dig or whatever, one finds all kinds of pieces that have a relationship to slavery and indentureship. But people are fearful all over the place, they conceal what they find or they refuse to report it to the authorities for fear that their property would be acquired and made into a national monument or national site and, as a result, many people do not know about it. We need to have some machinery set up and the best people for this would be the police in every area, if they are given that authority. I do not mean the police must do this as their main duty.

Then, I wish to draw attention, since we talked about artefacts and other historical objects, say, 75 years ago—I am using that figure, I do not know if I am right to use that figure—the main form of transport in Trinidad and Tobago, apart

from walking and other kinds of transport, was the horse-drawn carriage. There are people present here who must have ridden on horse-drawn carriages. Some people still have the carriages docked and these could be brought together, preserved and put in a museum or someplace; they are not difficult to find. [*Desk thumping*] perhaps, the hon. Senators here will know where to find some of these.

I am sure that Sen. Prof. Julian Kenny referred to the site that had important significance for the Carib settlers at Banwarie Trace on the San Francique Road. I live near to that area. It is private land. Will somebody do something about it since this Bill is now coming? I can tell you about that, I know the area.

What is happening is that there are certain signs that the old hospital in San Fernando that used to be known as the San Fernando Colonial Hospital, the entire building is still there, but there are signs that one of these days something will be done and that would be tracted down or pushed away from the place. Look at what has happened. When the San Fernando General Hospital was being built, there was a loud cry in San Fernando that it was being built on a site that should be preserved because it was a major Amerindian or Carib settlement area. Then the Naparima Bowl and all these places are there now. It is state property through the city corporation and the Ministry of Health, but some kind of monument could have been put up with some inscription or writing to say what kind of site that used to be. We have not seen anything happening to it as yet.

Now, it is recorded history that Columbus landed somewhere, some people say in Moruga and so forth, but with the kind of development and encroachment that is taking place on the beach area in Moruga, very shortly there will be no space for enactment on discovery day or whatever day. That is another site. The hon. Minister should take notice of that and get something. There is not any monument there. Then the hon. Minister would have left her name in history for a long, long time if she undertakes that project. [*Interruption*] I am being advised that a cross is mounted somewhere there. The last time I went I do not recall seeing it, but I have taken a good look at the place on several occasions.

Again, with your permission, Mr. President, I have to refer to the distinguished Sen. Prof. Julian Kenny; he speaks very passionately about Nelson Island. I had been there at a camp or seminar when I was a teenager. I actually had no notion of the importance of the place until many years later. I am told that the place is run down and destroyed. I heard the Senator across making reference to those very distinguished labour leaders and politicians who were isolated there, locked up, incarcerated, detained, or whatever. Nelson Island should get some priority. I understand the Minister of National Security, who is not here, as a result

of Sen. Prof. Julian Kenny's advocacy, took a delegation of engineers, architects and other environmental people to see the place with regard to what could be done. I am hoping that because of the rich historical value of that place, it would be one of the places that some consideration would be given to for restoration.

Then, if I go down deeper south in the La Romain district, there is a place the locals call the "lagoon area". There is not a lagoon there really, but they call it the "lagoon area". There are still some of the barracks where the indentured immigrants lived. There have been some changes to some of them, but the real big part of it still exists. Mr. President, with your permission, hon. Minister, we have got to acquire one of those to keep it for posterity. I think Parliamentary Secretary, Sen. Cuffy Dowlal, knows what I am talking about and where the location is.

Then, on the Siparia Old Road, heading to Siparia, there are two houses that were built by indentured immigrants and I am told that one belongs to a relative of mine. That family has a prosperous son who is a medical doctor in the United States. He comes every six months or every year to do different things, and he has spent his money to restore that one. Tourists and such like are still taken there to see it, but the other one is rundown and in a dilapidated condition. That is one of the buildings on the Siparia Old Road near Fyzabad that could be preserved and tourists could be taken there to see it.

There is something extraordinary with it. The walls are built of dirt and are about three feet thick. My hon. friend the Minister of Works and Transport knows, he is from that neighbourhood—like myself—he knows what I am talking about. It is a private residence, a privately owned place. Up to this date, the family is trying to maintain the whole appearance of it. They have no electricity. They use it sometimes for certain purposes, to keep a prayer meeting or a puja, but it does not have electricity or anything, but they have it in top shape. I am just drawing to your attention the number of things we have.

In the sugar estate in the Debe area there is something there, the residents call it "the silo". When I asked what that was for, they said when they used animals on the estates, the feed for the animals was processed there. They were doing some tractoring there for the National Housing Authority, I think it was, and the tractor driver—because of his love for the area and that little piece of concrete building, it is not a big building, it may be 10 feet square and it goes up about 30 feet in the air—almost lost his job because he refused to bulldoze that monument. I am calling it a monument. It is still there under the aegis of the National Trust, and something could be done about that.

Mr. President, there is still, in Trinidad, and perhaps in Port of Spain—I said I would not talk about this—old bungalows that the wealthy French planters—nobody refers to them, they are only referred to as the “Magnificent Seven”—and other people built. Some renovations have taken place and some of them could be preserved. In the country district there are still some wooden bungalows that the wealthy of that era lived in. We would really like to see some of those preserved.

Mr. President, it is a recent thing, there was also a very elaborate long-bucket system in Claxton Bay. Coming into Claxton Bay, the system that transported the raw material to the cement factory is no longer operational, because they are using fat pipes in which they pump the material to the factory. The equipment is lying about, some of those could also be preserved, those things are the heritage of Trinidad and Tobago.

So, what I am saying is that we have just got to look and we will find so much to preserve in this country of which we would all be proud and tourists would be attracted to them. Well, with the crime in Trinidad and Tobago, I am wondering whether tourists would like to come here.

Within the last 20 years, many improvements were done in Trinidad and Tobago, the different people who make up the national population visit the countries of their ancestors and they bring all kinds of artefacts, clothing, jewellery and all of that, some of those could also be preserved. Perhaps it will be interesting to note that some of the jewellery that the indentured immigrants wore are still around. They have put it away, they could be brought out, developed or taken care of and displayed in a museum or somewhere. There is a whole lot still available and can be found in Trinidad. We should make an effort.

Then, nobody talks about this, but I am talking about it, Mr. President. There was a great deal about the Lion House in Chaguanas, the house where the Capildeos or the Naipauls were born. I understand the Government has a special fund dealing with that, but not a single thing has happened over the last four years regarding that building.

Then, Mr. President, I have a view, I may be alone in that view. For example, with respect to great Trinidadians: what about the house or building where the great Dr. Eric Williams was born, can we not preserve that? What about the village or the site in which the honourable Prime Minister, Basdeo Panday, was born, or lived, or grew up? There might be something there to preserve. What about the house in which the late Mr. Bhadase Sagan Maharaj lived and planned his strategy to be a political force in the country and a tremendous labour leader

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[SEN. JAGMOHAN]

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and politician? I am being told right in Champs Fleurs, but I think it is more than Champs Fleurs, it is one or two other locations, I am told. Can we not acquire those sites or those buildings and put up some kind of monument to remember these great people? What about the city of San Fernando? You have so many pioneers from around there.

So, Mr. President, there is a whole lot for the people who will run the National Trust or the Government input to do about the things that the Bill talks about and the things that the hon. Senator says. But, I am sympathetic to the views that the distinguished leader of the Independent Bench expressed with regard to the issue of the environment, again, that Sen. Julian Kenny talked about. With firsthand information and with the knowledge of an expert in the field, we should pay attention to all those things.

I thank you, Mr. President.

Mr. President: We will break for tea at this stage and resume at 5 o'clock.

4.26 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips): Mr. President, from the discussions, it is obvious that there is the general sentiment expressed for the need to enact legislation to protect our national heritage. I really want to thank all Senators who contributed to this Bill and, as well, to thank them for the sentiments expressed that we need to rise above any kind of political partisanship, any kind of behaviour of that type, because this is of course, a Bill which is in the interest of the citizens of Trinidad and Tobago in general.

Just a brief comment on some of the issues raised which were largely those raised in the committee stage and we have been debating in the Senate as well. Because of these same issues we have made the kind of amendments we have made to the Bill.

Mr. President, the issue of the rights of persons, which Sen. Mohammed raised, I know is at the heart of her concerns—the right to have enjoyment of property. We debated that and we looked at how best it could be addressed. We did, in clause 3, put in place certain provisions to protect the rights of persons and that is contained in clause 3(c)(5)(a) and (b), where the information in relation to notices being placed, where the person is known or, if the owner is not known that the posting of such notices would be conspicuously placed *et cetera*. As well as the procedure for aggrieved persons who feel that listing their property was against their interest and there is a procedure in clause 4 which goes right up to a Judge in Chambers. So we have indeed addressed that matter.

While we see that it is important to identify buildings and monuments which are considered to be a national heritage, we have to take the rights of persons into account and we have done this with clauses 3 and 4. I know my senatorial colleague, Sen. Jagmohan, did list some very interesting artefacts and buildings, and these kinds of artefacts we will, of course look at but they, too, would be subject to the procedure in terms of ownership of them.

The next important matter raised by Sen. Prof. Kenny relates to the issue of the composition of the council, the debate between whether it should be Government controlled or NGO controlled. Of course, that embraces a wider issue and Sen. Prof. Kenny was quite right—a policy issue on where this Bill would go. Again, we debated that matter of the composition of the council and the need for governmental involvement and indeed control, to some extent.

That, too, has been balanced by the requirement that six Members constitute a quorum, but moreso, by the insertion which is clause 6 of the new section 7(A) where the decisions of the council shall be taken by two-thirds majority vote. I want to assure Sen. Prof. Kenny as well as others who are concerned with this matter, that we have done what is necessary. In fact, we are trying to do what is possible to enlarge the source from which Members of the Council are drawn. Even though some of these Members will be appointed by the Minister, they must be from certain agencies, whose objectives and objects are similar to the purposes of the trust. Therefore, this limits the sources from which the Minister can identify members of the council.

So we are saying, therefore, that all members of this council would be from agencies, institutions and organizations, be they governmental or non-governmental, which are concerned with issues of preservation and heritage *et cetera*. In addition to that, we have to ensure that decisions are taken by a two-thirds majority vote so that there is no one-sidedness in this regard. There are other reasons why—these also came up in the debates and discussions—there must be a governmental presence, perhaps control in this area, that has to do with the rights of persons, given the role of the Bill for listing people's properties and identifying them as items of national interest. The Government then has an obligation to protect those persons and an NGO cannot do that.

I take Sen. Prof. Spence's contention that the listing should not even be there in the first place. That, too, we did debate and we have addressed that by the inclusion of committees of experts which can be incorporated into the work of the trust, as well as sub-committees of the trust itself. So that whatever lack of

expertise there is in the Ministry of Agriculture, Land and Marine Resources and whatever other agencies are versed in these matters, the trust, through the council, has the ability to incorporate experts into its work.

5.10 p.m.

This is found in clause 8:

“13. (1) Subject to this Act, the Council may appoint such Standing Advisory Committees and sub-committees as it considers necessary and may delegate to any member of the Trust or to any sub-committee the power and authority to carry out on its behalf...”

Hence the expertise for carrying out these very sensitive and technical roles of the trust is provided for by these committees.

Those were some of the major concerns. We have others such as the consistency of the wording: that may be for the legal experts to tell us about, the consistency of the language.

Sen. Prof. Kenny did suggest that one of the first tasks of the trust should be to put together a technical team to advise Government on its heritage sites. Again, the Bill provides for this and we would certainly take his advice and do it. The Bill provides for the council having whatever technical expertise is necessary.

There was some discussion by Sen. Prof. Spence about Government's poor record in maintaining buildings but, again, the trust has the power to go outside of government to appoint committees whose members, I am sure, would be those of the very same bodies that Sen. Prof. Kenny is concerned about, who would provide that kind of action.

Mr. President, these were some of the main concerns we discussed in the sub-committee, the concerns about the definition of the trust and its role in listing. We have decided that for now the listed function would remain with the trust. The matter of overlap of jurisdiction came up as well and, again, was expressed by many of those who spoke.

We have inserted a special subclause 15(b) in clause 9 of the Bill, which states:

“The Trust shall initiate consultations with other government and non-government entities, perform various functions pertaining to the preservation of any property of interest or to the protection and management of the environment with the objective of formulating memoranda of understanding or other arrangements between the Trust and such other entities...”

Clause 15(b) is inserted in the Bill to deal with the matter of overlapping of jurisdiction, between the various ministries, agencies and even some non-governmental organizations. That would give us the collaboration for which many speakers asked. The collaboration and coordination between agencies would be available through this memoranda of understanding which the trust is empowered to create.

So issues such as the rights of persons, the overlapping of jurisdiction and the composition of the council have been discussed and have been provided for in the Bill. All the problems that we raised before have been, at least, addressed. We are still to decide whether they have been addressed in the best possible way, but in the committee, indeed, there was consensus that, perhaps, this is the way we need to go right now. We hope that this would allow us to have a National Trust and also allow us to monitor its operations and to be open to modify those operations and arrangements if need be.

I wish to request that everyone support this Bill because we have, indeed, seriously tried to address the main issues raised since the Act has been proclaimed in 1991.

Mr. President, I beg to move.

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 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Sen. Prof. Spence: Mr. Chairman, may I ask why the phrase "subject to this Act" has been changed to this position from the original Bill, in the amendment? The original Bill says, "The Council may appoint committees and subject to this Act may delegate". On the other hand, the new Bill says:

"Subject to this Act, the Council may appoint such Standing Advisory committees..."

It seems to me that the change in position of that phrase means that the meaning has been changed and I wondered why. In one case it is the delegation that is subject to this Act, in the other case it is the appointment of the committees that is subject to this Act.

Sen. Dr. Phillips: I have been advised that it does not make any difference, but if you want us to we can move it.

Sen. Prof. Spence: I just think of the English of it rather than the legalese that it makes a difference, but if in legal terminology it does not make a difference then I am all right. In reading the English of it, it seems to me that that phrase is now governing the appointments of the committees and not the delegation of the authority. But if the lawyers understand what it means then that is okay.

Sen. Dr. Phillips: It does not make a difference.

Sen. Prof. Spence: I hope they are right.

Sen. Dr. Phillips: It has been confirmed that it does not make a difference.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clauses 9 to 11 ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, November 9, 1999, at 1.30 p.m.

Mr. President: Hon. Senators, before putting the question, there is a matter to be raised on the adjournment by Sen. Prof. Kenny. May I advise you Senator, that you have a maximum of 15 minutes to make your presentation and the Minister will also have a maximum of 15 minutes to give his response.

5.25 p.m.

Environmental Commission

(Delay in Establishment of)

Sen. Prof. Julian Kenny: Mr. President, I raise this matter of the delay in the establishment of the commission at a time when scrutiny and accountability are very important features of our life. We are hearing every day and I, of course, have been scrutinizing what has been going on with the Environmental Management Authority for the past several months.

Mr. President, the Environmental Management Act of 1995 provides in Part VI, sections 62—71, for enforcement procedures. Part VIII, sections 81—90 provide for the establishment of the environmental commission which is a superior court of record equivalent to a High Court and this commission is supposed to hear appeals against orders made by the Environmental Management Authority. The Environmental Management Act requires the authority to do a number of things and it has been doing these things in spite of my critical comments. It has been preparing the annual state of the environment reports and environmental policy which we have received and it has been preparing a set of rules which would govern the enforcement of management of the environment.

Mr. President, some of these rules have already been approved by Cabinet. I refer particularly to the Certificate of Environmental Clearance Rules, 1999 which had been approved by Cabinet and the Chief Parliamentary Counsel, but these are not yet law for the simple reason that there is a conflict between making law in the absence of an appellant process. So that the solution to the problem is to establish the Environmental Commission. Once this is established, these rules are simply laid in Parliament for negative resolution to become the law. Cabinet, as I have said, has already approved these rules, and the chief parliamentary draftsman has approved the drafting.

Under sections 62—71, the Environmental Management Authority determined environmental requirements. It may require environmental clearance certificates; it can serve notices of violation against these rules; it can make administrative orders to make civil assessments of damages and compensation; but it is unable to do any of these things. It cannot lay these things in the absence of a commission. The apparent reason for this, I am told, is that the Environmental Management Authority Act is defective in that you cannot appoint the equivalent of a High Court judge except through the Judicial and Legal Service Commission on the recommendation of the President. The Act says the President, on the advice of Cabinet. This I am told is one of the main reasons. I am told also, another reason is the commission must be in place prior to these rules being laid in Parliament. The rules as laid down here can have no effect in the absence of the commission.

Mr. President, we have borrowed as a conditionality, I think, US \$6 million from the World Bank to set up this authority which, under the Act, was established on June 05, 1995. We are spending approximately \$5 million a year, I am told, and it seems pointless because we have no rules, we have no commission. I cannot understand why we did not recognize, at the start, that when we established the authority in parallel we ought to have established the commission.

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Mr. President, I raise this because I am very concerned with the apparent inability to get the thing moving. The hon. Minister of Finance in the 1998/1999 Budget in response to concerns expressed in this Senate, as well as in the Lower House, made provision in that budget. Again, provision is made in this 1999/2000 Budget and I want to be assured by somebody that we are going to take our commitment about fulfilling the law seriously, which is the Environmental Management Authority Act and getting this commission established without delay.

There have been a number of developments which have been launched over the past couple years that we have heard about in the newspapers. These developments to which I would refer under the Environmental Clearance Rules would have required Environmental Clearance Certificates before the award of contract or anything like this, and with the required environmental impact assessment being done.

Mr. President, I can assure you that if you do an environmental impact assessment according to the disciplines and protocols, and you do it *post facto*—a decision to do something, that is to sign the contract for somebody to build the port—nobody in the profession would accept this as a serious environmental impact assessment. All environmental impact assessments start out with the basic proposal of what are the alternatives. This is a discipline that has developed over the past 20 years and we have been told that an environmental impact assessment would be done at the Point Lisas desalination plant, but doing it *post facto* means absolutely nothing.

I would like to refer to some of the proposals and to a supplement to the rules. I am sure the hon. Minister has read his Act. Forgive me, I really ought to have welcomed and congratulated the Minister on his appointment to what I consider to be what ought to be one of the most important ministries of Government. [*Desk thumping*] Mr. President, Cabinet has approved of this and I am sure there are Cabinet Members here—collective responsibility—who have approved the rules and there is a schedule that goes with the rules and I have marked some of them.

Activity 7 which is Generation of Electricity. You are supposed to have had an environmental clearance certificate before a project is established on agricultural land.

Waterproofing/caulking/paving and so forth—the rules have been approved by Cabinet and the schedule has been approved by Cabinet. “The establishment of a paved area or surfaces of more than 4500 square metres” requires an environmental clearance certificate and many of the Cabinet Members are sitting here and they know this too well—I assume that they take their responsibilities very seriously—they approved of it.

Mr. President, the coastal offshore construction modification dredging activities. This is the Toco ferry port and the Point Lisas desalination plant. This would have required an environmental clearance certificate and I can go on. Where I have these little yellow flags, it tells me—and this is an official document which I received from the Environmental Management Authority. Any citizen can ask for it.

No. 39, the “Treatment of Potable/Process Water”, a desalination plant. This will require an environmental clearance certificate. The establishment of water distribution systems.

Mr. President, I will be very brief. There are a number of these major projects that in the spirit of the environmental clearance rules are approved by Cabinet, and a schedule which goes with it. I sincerely hope that we somehow could use the spirit of this legislation and make sure that any project from now on—while we are waiting for the commission to be established—of any size whether it is a urea plant or whatever have you, that before we actually go into contracts, we observe the spirit of this law.

I am quite serious when I point out that had sections 62, 63, 64 and 65 been enforced, the Environmental Management Authority could have issued an administrative order to Mr. Carlos John and the National Carnival Commission. It is there in the law. Had these rules been passed, the authority could have ordered, under the rules, the National Carnival Commission and Carlos John to cease, desist and stop.

The authority could have also, under section 66(b), made an administrative civil assessment of compensation for damages against Mr. Carlos John and the National Carnival Commission and this civil assessment for compensation for damages is referenced in the administrative order with public lands or holdings which arise out of violation. It is quite clear what the law is supposed to mean, the spirit of it. I point out that if they defied the authority in the law, had we the rules, and had we a commission in place, then Mr. Carlos John and the National Carnival Commission could have appealed to the environmental commission for a decision of the Environmental Management Authority. This is something that is integral to the Environmental Management Act and I really do hope that the hon. Minister would respond to me, not from a prepared statement, but with the same degree of passion that I use in hoping and praying that we could manage our environment.

Thank you.

The Minister of the Environment (Dr. The Hon. Reeza Mohammed): Mr. President, I would like to assure Sen. Prof. Kenny that his prayers are about to be answered. Let me first, however, thank my hon. Prime Minister and Sen. Prof.

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[HON. DR. R. MOHAMMED]

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Kenny for the promotion vested upon me in that I stand before this honourable Senate today in my new capacity as Minister of the Environment.

Sen. Prof. Kenny spoke about the establishment of the commission and I would like to inform this honourable Senate that presently before the House of Representatives, the Environmental Management (Amdt.) (No. 2) Bill is being debated with a view to establishing the environmental commission. Hopefully, the debate on this amendment Bill would be completed on Friday, November 5, 1999 at the next sitting of the House of Representatives, thereafter to be laid in the Senate for debate.

Mr. President, yes, we have been a bit tardy in bringing to the Parliament the necessary amendments in order to establish the Environmental Commission. The commission is to be comprised of two commissioners who would be given the status of Justices of the High Court, which is to be a superior court and it will be comprised of a chairman and a deputy chairman. They would be required to be attorneys-at-law with no less than 10 years' experience in the profession. And the commission will also comprise of six assessors, made up of people of different disciplines as an advisory team to the commissioners. They would comprise sociologists, scientists, environmentalists, engineers and what have you. And, yes, section 35 of the Environmental Management Act of 1995 speaks to a certificate of environmental clearance. Cabinet, as indicated by Sen. Prof. Kenny, has approved the rules.

As soon as the commission is appointed by the Judicial and Legal Service Commission, Mr. President, as would now be required under the (Amdt.) (No. 2) Bill, then these rules, under section 35 of the Environmental Management Act of 1995, will be laid in this Parliament for negative resolution. Thereinafter they will become law and the Environmental Management Authority will then have the responsibility of enforcement.

So, Prof. Kenny, to respond to your concerns and to satisfy your eagerness to have the Environmental Commission put in place, I say to you, your prayers will be soon answered, Sir. Thank you very much, Mr. President. [*Desk thumping*]

DIVALI GREETINGS

Mr. President: Hon. Senators, may I take this opportunity to wish all Members and their families and the wider national community and, in particular, the Hindu community of Trinidad and Tobago happy Divali greetings.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.42 p.m.