SENATE

Tuesday, May 22, 2001

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Members, leave of absence from sittings of the Senate has been approved for Sen. Prof. Ramesh Deosaran during the period May 20 to May 24, 2001.

SENATOR'S APPOINTMENT

Mr. President: I have received the following communication from His Excellency the President.

"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: MRS. LAILA SULTAN-KHAN VALERE

WHEREAS Senator Professor Ramesh Deosaran is incapable of performing his duties 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, LAILA SULTAN-KHAN VALERE, to be temporarily a member of the Senate, with effect from 21st May, 2001 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Ramesh Deosaran.

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 21st day of May, 2001."

OATH OF ALLEGIANCE

Sen. Laila Sultan-Khan Valere took and subscribed the Oath of Allegiance as required by law.

IMMIGRATION (CARIBBEAN COMMUNITY SKILLED NATIONALS) (AMDT.) BILL

Bill to amend the Immigration (Caribbean Community Skilled Nationals) Act, 1996, brought from the House of Representatives [*The Minister of Enterprise Development, Foreign Affairs and Tourism*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate. [*Sen. The Hon. L. Gillette*]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, today is Private Members' Day. However, by agreement among the respective leaders, we have agreed to deal with "Government Business, Bills Second Reading". Therefore, Mr. President, I seek leave of the Senate to deal with "Government Business, Bills Second Reading" instead of "Private Business".

Agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Eastern Regional Health Authority for the year ended December 31, 1996. [*The Minister of Finance (Sen. The Hon. Gerald Yetming)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago of the Eastern Regional Health Authority for the year ended December 31, 1997. [*Hon. G. Yetming*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements on the Tobago House of Assembly for the year ended December 31, 1996. [*Hon. G. Yetming*]

4. Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Public Assistance Programme of the Ministry of

Social and Community Development. (now Ministry of Community Empowerment, Sports and Consumer Affairs) [*Hon. G. Yetming*]

5. Annual Report 1999 of the Controller, Intellectual Property Office. [*The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette)*]

6. Biodiversity Strategy and Action Plan for Trinidad and Tobago. [*Hon. L. Gillette*]

7. The Sixtieth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Hon. G. Yetming*]

8. The Certificate of Environmental Clearance Rules, 2001. [*Hon. G. Yetming*]

PLANNING AND DEVELOPMENT OF LAND BILL

Order for second reading read.

The Minister of Integrated Planning and Development (Hon. John Humphrey): Mr. President, I beg to move,

That a Bill relating to the planning and development of land be now read a second time.

Mr. President, this occasion is like déjà vu. For those new Members of the honourable Senate, when I present my introduction you will realize why. Mr. President, the Planning and Development of Land Bill had its genesis in 1987 in response to the need for reform in the planning system and has evolved through three administrations.

In 1988, under the NAR administration, the United Nations Centre for Human Settlements—that is, UNCHS Habitat—provided technical assistance for comprehensive review of the Town and Country Planning Act, Chap. 35:01, to strengthen the legal and administrative framework for urban and regional planning and to prepare a draft bill for a reformed Town and Country Planning Act. So that exercise started way back in the days of the NAR regime in 1988. Within the context of discussions held in 1995 with the Inter-American Development Bank on the Agricultural Sector Reform Programme, the PNM administration agreed to a set of guidelines for finalizing new planning legislation. The revision of the draft legislation to incorporate these guidelines was supervised by a broad-based public sector/private sector committee appointed by Cabinet, and supported by Canadian planning legislation consultants funded by the United Nations Development Programme.

At this point in its evolution, a significant addition to the Bill, then called the Urban and Regional Planning Bill, was the inclusion of provisions for the building and construction permitting regime. Under the present administration, a committee was established in 1996 to review the existing planning system, including the draft Urban and Regional Planning Bill, with a view to implementing the UNC's physical planning policy and that policy, Mr. President, was enunciated in the manifesto for the United National Congress in the election of 1995. It is not very long but I think it is worth putting on record. At page 16 of the manifesto under the rubric "Construction" I quote:

> "No physical development projects can commence without proper planning or proceed if obstructed by government bureaucracy. The Town and Country Planning Division will be reformed and decentralized to speed up the process of plan approval as well as to provide the capacity for controlling unauthorized development.
>
> The UNC will appoint an independent National Physical Planning Commission which will be given the responsibility for:
>
> - Developing a Comprehensive Physical Plan for Trinidad and Tobago
> - Developing a Code of Appropriate Standards
> - Monitoring of the professionals who would be responsible for ensuring adherence to both the requirements of the National Plan and the Code of Standards. Appropriate penalties will be applied to ensure compliance."

Then there were some priority areas that were enunciated and these were:

> "
> - Repair and enhancement of the existing road network
> - Infrastructure for agricultural production
> - Adequate shelter with the emphasis on housing"

It goes on to say:

> "It is anticipated that by directing and mobilizing all the resources of the nation's construction industry towards building an adequate infrastructure for food production and human settlements, there will be massive job creation and an improvement in living standards.
>
> In this regard a UNC Government will adopt the following proposals:

- Roads and bridges will be constructed on a large scale basis, giving access to unutilised areas of the country. Two major highway projects will be undertaken. One is a link between San Fernando and Mayaro and the other is an extension of the Churchill Roosevelt Highway to Toco. A North Coast road will give access to the entire North for development—for settlements, tourism, agriculture and for fisheries. This North Coast road will give another much needed access to Chaguaramas

- A Ferry Port linking Trinidad to Tobago will be made between Toco and Matura at the most appropriate natural location

- A massive road maintenance and improvement programme will be initiated with an instant response division being established to prevent pot holes from becoming craters in the nation's roads

- New settlements and those that will be expanded and enhanced will be based, in so far as it is feasible, on a philosophy where the land for development purposes is vested in the communities and organized in co-operatives"

Now, Mr. President, that was the manifesto for the 1995 election and I am sure hon. Senators will realize that a lot of the things were not realized, especially the opening up of the highway infrastructure. That is required for making the country more productive and for utilizing idle land which in fact enables the country to be more productive. So the draft Urban and Regional Planning Bill, 1995 was substantially revised to highlight the following: broader stakeholder consultation in the planning process; development of building and construction codes; unification of construction approvals; devolution of plan making and development control; a role for registered professionals in fast-tracking approvals; a formal system of appeals; coordination of planning and environmental matters.

The Bill so amended was introduced in Parliament in 1998 under the title "Planning and Development of Land Bill", which is the Bill we have before us now. The name change recognizes a new emphasis given to the translation of the plans into actual construction. The purpose of this Bill, as detailed in clause 3, is to reform the Town and Country Planning laws of Trinidad and Tobago by establishing systems of planning and development approvals that are designed to secure predictability, simplicity, promptness and transparency in the treatment of development applications. The Bill also seeks to encourage integration and

coordination of sectoral policies among key stakeholders through their participation in the National Physical Planning Commission.

1.45 p.m.

This Bills seeks to reform a planning regime characterized by the following:

(1) the cumbersome process for bringing plans to statutory approval with limited opportunity for community involvement;

(2) poor coordination of policies of various land management agencies;

(3) a slow approval process;

(4) a high degree of non-compliance;

(5) ineffective enforcement provision; and

(6) a lack of statutory framework for appeals.

Upon its first introduction to Parliament, the Planning and Development of Land Bill was read a second time in the House of Representatives on July 03, 1998. As a result of Members' contributions, a number of amendments were made at the committee stage and the Bill was passed unanimously.

The Bill was subsequently introduced at a sitting of the Senate held on Thursday, August 20, 1998. The Bill was read a second time and committed to a Special Select Committee of the Senate with a mandate to report in two weeks. Notwithstanding extensions granted the committee, it was unable to complete its deliberations before the end of the session, and the Bill lapsed.

Following reintroduction of the Bill at a sitting of the Senate held on Friday, December 04, 1998, the Senate agreed to the appointment of a Joint Select Committee of Parliament comprising six Senators and six Members of the House of Representatives, to consider and report on the Planning and Development of Land (No. 2) Bill, 1998. Evidence taken by the Select Committee of the Senate in the previous session was referred to the Joint Select Committee.

The committee held a total of two meetings; the first one was on Wednesday, January 20, 1999, and the second on Wednesday, March 10, 1999. The Joint Select Committee was unable to conclude its deliberations before the end of the session. It offered no new guidance for amendment or reform of the planning legislation, and the Bill lapsed.

The present Bill attempts to promote public participation in the forward planning process, through consultation with stakeholders at all stages of plan

preparation. It provides for devolution of development planning as well as development control to the municipal corporations within two years. It mandates the National Planning Commission to enhance the planning capability of the local authority and to develop appropriate codes and standards to guide decision-making; such codes to be formally established by the Minister with the Chief Building Officer ensuring compliance with the codes and standards.

Government estimates that as much as 85 per cent of all planning applications dealing with small buildings and simple subdivisions will devolve to local authorities, once the small building codes and local area development plans are brought into operation.

The Bill proposes that plans for complex structures or construction in challenging environmental conditions should be submitted only by listed professionals. Employment of a listed professional would, in certain circumstances, expedite the approval process as the commission would have the power to delegate its planning approval process to those professionals registered.

The Bill unifies construction approvals. It creates a one-stop shop by providing for all approvals for simple plans through the office of the local authorities and for the approval of complex structures through the Development Control Committee of the National Physical Planning Commission.

The Bill confers the right of appeal to a judicial tribunal independent of the Minister. At the present time, appeals go to the Minister; that is a practice established over many years. But the Town and Country Planning Act says that the Minister, with an advisory town planning panel, is the authority to grant approval. It mentions nothing about appeals. So the Minister, under the present legislation, has absolute power. He has a committee, the Town and Country Planning Advisory Committee and, of course, he has officers in the Ministry who he can call upon to give advice. He has the professionals who he can call upon to give advice, but the Act, at present, gives the Minister total power. This Bill, however, truncates the Minister's power considerably.

In the Senate Select Committee there were some issues that were raised. I would like to just remind hon. Senators of those issues. The issue of the parallel or concurrent jurisdiction is between the National Physical Planning Commission and the Environmental Management Authority (EMA). Provisions dealing with the environmental impact assessment (EIA) requirements upon applications for planning permission are being deleted.

The Bill now provides for the execution of a memorandum of understanding between the National Physical Planning Commission and the Environmental Management Authority for the administration of environmental impact assessments and certificates of environmental clearance, as they relate to land development proposals.

In the time that has elapsed, Mr. President, we did not sit idly by. We actually started to implement many of the provisions of the draft legislation, so that when it is finally passed the institutional framework would be in place. A memorandum of understanding was, in fact, reached between the EMA and the interim National Physical Planning Commission. So although the existing legislation empowers the Minister to take the decisions, in fact, it is this legislation that has been guiding this Minister in his decision-making.

The institutional framework has been very gradually, very meticulously laid. I should pause to give thanks to those members of the professional community who have spent a tremendous amount of their free time in assisting the Government in finalizing the Bill as we have it before us now.

The interim National Physical Planning Commission had no legislative authority, and yet they worked assiduously and drew up a code of standards. In fact, the documentation that is called for in the legislation has virtually been completed; all it needs is to be brought to the two Houses of Parliament to be accepted. I want to thank those gentlemen and ladies who have worked and who have been able to bring us to the point where we are today. When the law is passed you can be assured that it would not take years before it is implemented. In fact, it will merely take days.

Another issue was duplication of the institutional functions between the Planning and Development Appeals Board and the Environmental Commission under the Environmental Management Authority Act. The Planning and Development of Land Act, 2000 now provides for appeals to an environmental commission. Appeals came to the Minister with the panel advising him, but now there is going to be a tribunal and that tribunal is going to be independent.

There were concerns of proposed devolution of planning functions to local authorities. Senators in the Select Committee expressed the concern that that might be indefinitely delayed. What the Bill does, in fact, is to call on the Minister to devolve that function to the local authorities within two years, and the commission is mandated to do that. But unless the local authorities are equipped to actually take charge of the planning process and have on their staff urban

planners and other professionals: surveyors, architects, it would be very difficult for local authorities to play a really meaningful role in the physical planning and development process.

We do have two years to achieve that, and I think that deserves everybody's commitment. We should try to leave partisanship out of the process, because physical planning is too important for every citizen of our country and for the future development of our country to allow partisanship to undermine it.

Another concern—and this was expressed in both Houses—was respecting, firstly, the omnipresence of the Minister in the 1998 version of the Bill and, secondly, the intrusive role that would have been allowed the Minister, if that Bill had been enacted. These concerns have been noted. Functions of the Minister which have been transferred to the commission—many erstwhile functions of the Minister have been transferred to the Commission. For example, the Minister's call up powers, which is in clause 47(1), are restricted to matters that sufficiently warrant intervention, that is, issues of more than local importance, matters raising substantial regional or national controversy, proposals that conflict with national policy matters involving the interest of a foreign government, and matters affecting the treaty obligations of Trinidad and Tobago.

Another concern, by at least one Senator, was respecting the removal of municipal councillors from the building permit approval process. The Bill at clause 62(6) and (7) now provides for a measure of technical supervision by local authorities over their building control officers, where within 14 days of any decision, councillors object to an officer's decision and state reasons for the objection, the decision will be reviewed by the chief building officer.

Another issue is with respect to the proposal to include a plan prepared by the Tobago House of Assembly (THA) as the Tobago element to the National Physical Development Plan. The National Physical Development Plan would be the umbrella policy document for national physical development. Its preparation would require adequate consultation with all interests in Tobago and participation by the THA on the National Physical Plan Standing Committee of the commission. So Tobago will be represented, both as a commissioner in the commission and on the committee. The Bill leaves acceptance of the output from that development plan preparation exercise to the Minister, Cabinet and Parliament.

Another concern was the issue of the listing of buildings. Consistent with the recent amendment and proclamation of the National Trust legislation, all powers to list buildings have been removed from this Bill. Another consideration was the

concern of certain Senators that certain penalties under the Bill were not sufficiently severe to serve as deterrents. The penalties have been significantly increased, for example, clause 54(2) and (3).

Mr. President and Senators, as you no doubt have realized, this Bill has far-reaching implications for all of us. It would assist in the orderly, efficient and equitable planning, allocation and development of the resources of Trinidad and Tobago, taking into account all relevant social, economic, ecological and cultural factors. The Bill, therefore, introduces an enhanced planning system ensuring predictability, simplicity, transparency, community empowerment and buying, development of capability among entities, devolution of planning and development control, and coordination of planning and environmental concerns.

In addition, the Bill provides for the enhancement of institutional arrangements for inter-agency coordination in the delivery of physical infrastructure consistent with the socio-economic policies of the Government. In effect, what this Bill does is assemble a group of our top professionals in a National Physical Planning Commission drawn from both the State and the private sector. It mandates that commission to prepare the macro plan for the physical development of Trinidad and Tobago and to work with, again, the professionals in the country in the preparation of that plan, that once plans are prepared, to take those to public consultation and to bring the widest cross-section of involvement of the people of Trinidad and Tobago who would be affected by physical development.

I want to put on record some of the issues that were recently placed in contention in the public debate, but before I do that, Mr. President, I ask your leave to reproduce what I think would be a very, very useful guide for hon. Senators—the document that was prepared by Mr. Hugh Robertson, who is the legal officer in the interim National Physical Planning Commission, who is loaned by the Law Reform Commission because of his experience and expertise in planning and land matters.

2.00 p.m.

He has produced what he calls actors and roles under the Planning and Development of Land Act. I think it is very useful for Members to have this because it is a precise version of the Bill. May I ask that this be reproduced and distributed to hon. Senators? Thank you.

Recently, the interim National Physical Planning Commission had a number of public consultations and a former Senator, Mrs. Mahabir-Wyatt; a leading

attorney, Mr. Gregory Delzin; and an environmentalist, Mr. Gary Aboud, were very vocal in their questions, and where they misunderstood some of the provisions, their condemnation of the legislation. I would like just to share with hon. Members this exercise because I think it is a very useful exercise.

Mrs. Mahabir-Wyatt made an allegation that: "The power and authority previously entrusted to previous agencies is now vested in the development control committee. All laws vesting powers in the various technical authorities, for example WASA, cease to have effect."

The reality: By clause 75(4) of the Bill what would cease to have effect is the provision of relevant laws to the extent that they prescribe procedures for granting approval or for furnishing advice. The jurisdiction or authority of the agency to make a decision is not affected. However, for the future it must harmonize its procedures with other agencies in the one-stop shop.

Another allegation made: In determining applications for permission the Minister is not required to take into account the matters the Commission or Planning Authority must consider in determining applications.

The reality: Clause 45(5) expressly provides that when an application for permission or outline planning approval is referred to the Minister, the provisions of clauses 33—38 shall apply as they apply to applications that fall to be determined by the Commission or any planning authority.

Clauses 33—38 prescribe the manner of determining applications for permission and the matters that must be taken into account.

Allegation made: The decisions of the Commission may be overruled by the Minister. The Minister may revoke permission and his decision is final.

The reality: This charge refers to the power to revoke or modify permission provided for in clause 49. Clause 49 has nothing to do with overruling. The clause recognizes that to the extent that a valid permission remains unimplemented, it might in certain circumstances be withdrawn or modified, with the Minister being liable to pay compensation. Not this Minister, the Minister of Finance.

This provision merely repeats section 15 of the Town and Country Planning Act.

Another allegation made: The Bill takes away the right of appeal.

The reality: Under the current law there is no right of appeal against an adverse decision made by the Minister or his officers on an application for

permission. It is, therefore, difficult to understand what right the Bill would take away. In fact, there is a practice of appeal but there is no right enshrined in the legislation. The practice of appeal was to go to the Minister when the Town and Country Planning Division said no. You go to the Minister and he acted as a tribunal and he got the advisors of the Advisory Town Planning panel to advise him.

I have had many of those in the last term and in this current term but in fact, the law does not provide for that. What I encourage people to do if they are having difficulties with the Town and Country Planning Division is to refer the matter to the Minister because under the present Act it is the Minister who grants approval. When that happens I refer immediately to my advisory panel and we sit and look at aerial photographs of the country, we see what the trends are and we make policy in an ad hoc way but it is well-informed. Where we have the National Physical Plan in concert, we refer to it.

There is only one part of the country where development plans have been completed, that is the Couva area, and of course, we refer to that. So those decisions are not really ad hoc but there is no legislative framework to enable citizens to get redress.

Had the Minister delegated authority to determine applications for permission to local authorities under section 10 of the Town and Country Planning Act, there would have been the right to appeal the local authorities' decision to the Minister and the Minister's decision on such appeals would have been final. The reason for providing that right of appeal to the Minister is that liability to pay compensation can arise upon a refusal of permission, or imposition of conditions, but only if such refusal or other decision is made by the Minister under the present Act.

Another allegation that was made: There is concentration of power in the Minister.

The reality: The Bill does the reverse. Whereas under the current legislation all powers, whether to prepare the development plans or to exercise development control are vested in the Minister, clause 48 specifies the very limited situations in which the Minister can intervene in applications for permission. The Bill proposes devolution of significant plan-making functions to local authorities.

So the concerns that have been expressed were mainly as a result of a little misunderstanding of the Bill.

There were some other concerns that came out of a more recent consultation and it seems that people are agitating. At this very moment there is a

demonstration around the Senate. People are concerned that the Bill is going to put all the land of Trinidad and Tobago into the hands of the rich. This is quite untrue. There are 50,000 squatting families in Trinidad and Tobago, half of which are on State land and we passed legislation to regularize all of those families who are on State land because the Parliament has the power to do that. It was felt that we should not, in that legislation, regularize private land—although Parliament had the power to do that—because that would have taken away the rights to those lands from their owners. We have offered a service to assist private landowners, who have squatters on their land, in regularizing. We have to do it on a case by case basis. But by and large, 50,000 families of Trinidad and Tobago are enjoying security of tenure that they never had before. So it is not the rich who are being favoured. We are trying to achieve a situation where there will be no poor Trinidadian and Tobagonian families.

2.10 p.m.

One way of achieving that is through land tenure. If every family owns a piece of land and a home and has access to financial resources, both to acquire the home and to improve it, as is the case, then we believe that every single family would have a stake, a meaningful shareholding in the national wealth of the country. Of course, that is just one aspect of ownership of property. But we have done other things. We have consolidated Government's ownership of the productive enterprises into a company that is not a State-owned company anymore; it is a public company where shareholding is being offered to everyone; in fact, preferentially, to the poor. So that is another move that this Government has made to ensure that the wealth is spread and enjoyed equitably.

This Bill does no such thing. I cannot understand why people are agitating against it, arguing that land is going to be owned only by the rich. You know, there is such a thing as a satiation level with human beings. I mean, we all have similar physical proportion and space that is allocated for our enjoyment and use. It is only convenient if it is designed on the basis of our own proportion. For example, when you use a staircase, you put your threaders and your risers in a certain proportion to suit the way the human being walks and goes from floor to floor.

So every human being has that satiation level, and the super rich of the world satisfy themselves with relatively simple things, because how many homes can one individual live in at the same time? Of course, you want a boat, but you can get a giant yacht. But when you buy a giant yacht, you put a lot of people to work in manufacturing it. It is true, you mobilize a lot of valuable resources in the

process, and then it is so big that you cannot manage it yourself, so you have to employ people.

Exactly the same thing will happen, for example, with things that are happening now on the Port of Spain Waterfront. We are creating new land. In fact, we are creating approximately 300 acres of new land. Now, the poor cannot go in there and develop it, because they do not have finances. You cannot create the land unless you get the finances to pay the people who have to do the dredging and the reclamation. So, naturally, to develop those lands, you have got to bring the people of means into the process and the strategy adopted by the Government is joint venture with the private sector. If the Government does not have the capital resources—because of course we do not have unlimited resources—you go where there are those resources. So we are forming partnerships with the private sector to develop the waterfront.

But the plan for the waterfront is deliberately designed to enable the citizens to enjoy access to the Gulf of Paria which, historically, we have not enjoyed. Anyone going down by Wrightson Road now, adjacent to the port lands, will see a fence. In fact, it is a secured area. To get to the waterfront of Port of Spain, you have to get permission from the Port Authority or, of course, the Minister of Transport could give permission. But it is not being developed in a friendly way.

What we are going to do is put boardwalks and put the promenades and that sort of feature, on the waterfront, and it is being deliberately designed to maximize the length of the waterfront. In that way, it is going to be made available for the enjoyment of our people. But, of course, the development itself will occur, creating jobs.

Now there is one contentious issue in the whole Port of Spain waterfront plan, for example, and that is: What do we do with the community at Katanga and Sea Lots? Anyone who looks at the plan will see that what we have proposed is to reclaim an area about equivalent in the space of the existing Katanga/Sea Lots area, enhance the river mouth which makes it accessible to yachts and that sort of thing, and on the reclaimed land build housing, but in a very special way; three-storey row housing where the upper two floors are the homes, the ground floor is a place of business—a little commercial or industrial space—and the family gets the three floors. So that you have a place to live, a place to work and to create similar facilities to what have been developing in Chaguaramas, where the yachtsmen of the world find a safe haven in Trinidad to park their yachts during the season and to come down and use them for their vacation, cruising the Caribbean. Then, of course, the Government has initiated a very major training

programme—the Minister of Energy and Energy Industries knows a lot about that, because a lot of the resources come from the fund under his charge—so that the people of that area would be trained in the skills that would be required for the servicing of these yachts and the building of new ones. So when that is done, we then demolish and clear the existing area and we create a lovely park, playground for the children; plant a lot of trees. That is the way we are conceiving of the development of that area.

Other areas of the country are being developed in a similar way. For example, the Chaguaramas area, we have completed a conceptual plan for Chaguaramas and we are now venturing into doing a development plan, and that is in conjunction with the Chaguaramas Development Authority. But anyone who has used Chaguaramas will realize that the Western Main Road is restrictive and that has got to be upgraded. The dual carriageway comes along the Western Main Road, from the city and it ends at the Goodwood Park crescent, and then it fuses into one carriageway. We need to extend the dual carriageway all the way into Chaguaramas.

In fact, back in the '80s, an engineering prefeasibility study was done and we have that available to us and we are developing on that. So we are going to dual the road all the way into Chaguaramas. But how do you finance it? The Minister of Finance has it that there will be a moratorium on further Government borrowing, at least, until we can see our situation in a more favourable way. But there are imaginative and innovative ways of developing infrastructure without recourse to the Minister of Finance for a sovereign guarantee or for an allocation, and that is, to go to the private sector, offer the private sector the opportunity to build a toll road—that is one possibility—or if the road creates new land space, as we intend, between Point Cumana and Carenage—because we intend to reclaim a strip there—offer some of that land to be developed so that you could get a return for the capital outlay.

We are in discussions with the big developers of the country in terms of the joint venture approach between the State and the private sector to raise the capital invested and get a return. That gives us a win-win situation, because you win in getting the infrastructure that everybody enjoys, but you always win in getting further development that stimulates the economy, creates jobs, enhances the whole physical environment. So these are the innovative ways that we are seeking, in fact, to implement the provisions of this legislation, and to streamline the whole process.

A potential developer wants to do a development—maybe he owns a piece of land—and he does not know what, in fact, would be allowed. Before he goes and employs his professionals and pays hefty fees, he can come into the commission and sit with the proactive planning arm of the Commission, unfold the national plan, identify his land in the context of the national plan, and discuss what could be developed that would, in fact, enhance the physical development of the country and give him a viable return.

2.20 p.m.

Before he spends his money he comes in and gets guidance on the process. Naturally once you start in that way each stage of the process is pre-approved. There is a commission that represents every State agency that at the present time gives approval. Therefore, it is a one-stop-shop. Then, there is a proactive arm of the commission—that is employees who are competent people—working in conjunction with the Joint Consultative Council, the umbrella group of all the private sector professionals in the construction industry. It is an ideal arrangement.

This Bill is not to impose restriction on the people of Trinidad and Tobago. It is to do exactly the opposite. It is to enable orderly development to occur on the basis of plans that had been approved virtually by the population. Some might go in the election manifesto and get endorsement there, others go to public consultation. I believe that tomorrow afternoon there would be a public consultation on the Port of Spain plan. There has been much progress on this plan. Those of us who use the city of Port of Spain know that there are serious problems. Some problems seem completely unsolvable, but our planners have been able to find solutions.

Let me give an example. The ACS headquarters project was won by the PNM government where a delegation from the PNM government attended as a member of the ACS meeting to determine where the headquarters would be located. They argued very well and got it to be located in Trinidad. That was some time ago. Only now are we seeing the ACS headquarters complex coming to life. To have it come to life, the State could not do it. We had to find private sector partners. We have found those partners. They are a very big hotel developer from the United States, a very big local developer and UDeCOTT which is the arm of the State that represents people of Trinidad and Tobago as equity partners.

Anybody who uses the Wrightson Road area and the Beetham, from South Quay, would know there is a bottleneck. We had to grapple with that problem.

The planners have long recognized that Port of Spain needs an east/west express bypass. The cars that do not want to stay in the city that are, maybe, leaving the west to go to the airport have to share Wrightson Road with the cars that want to stay in the city. There is a constant traffic jam. We had to provide space to enable that east/west bypass. The planners got together and identified that in the long term what is required is a certain amount of space to be sterilized. It has all been done in conjunction with the project that is developing for the ACS headquarters conference. I can share something with you. The developers want that complex to be a Caribbean icon. They have taken a policy decision to make it the tallest building in the Caribbean. That would be a very beautiful tall building that would make the financial complex fade into insignificance.

The purpose of this legislation is to streamline those processes; make them more democratic and transparent and to bring benefits in the long term for the people of Trinidad and Tobago. I think when the paper that I asked to be circulated is circulated, Senators would have an easier time going through this. It consists of 107 clauses and there are three Schedules. I think only the attorneys among us would be able to digest this Bill. Each clause is difficult to understand.

Someone whispered to me that Members of the Independent Bench are asking for yet another select committee. I think they are Members who have recently joined the Independent Bench because those who were here before were on three committees. If that is wanted, I am afraid that would further delay the passage of the legislation. Amendments are possible and would be brought at the committee stage. If they need more time to make proposals for amendments and there are things in here that bother hon. Senators, I suggest we would deal with that in the committee stage.

Thank you.

Question proposed.

Sen. Glenda Morean: Mr. President, the Minister has dealt with matters raised in this Bill by Senators in relation to previous drafts. I would have been happier if the Minister had addressed us on the contents of this present draft before us. As the Minister has correctly stated, this is a pretty complex bit of proposed legislation. Even the lawyers among us, I am sure, have had much trouble coming to terms with and rationalizing the different clauses in the Bill in relation to existing legislation.

If I may preempt somewhat, I think at the end of it all, instead of going to the committee stage, the Bill should be referred to a select committee in order for us

to make informed contributions to this proposed piece of legislation. The Bill has as its stated purpose, the reform of the Town and Country Planning legislation. This objective is laudable and I support it. This is an area of our laws in which there is observance more in the breach than in the implementation. The powers that be seem powerless to implement or ensure compliance with the existing planning laws. What we see proposed is a complex set of provisions which may be even more difficult to implement, unless we take our time and get it right.

We have had the Minister of Integrated Planning and Development tell us on a previous occasion that about 80 per cent of the buildings in the country are illegally constructed. We have had the dangerous situation of a shopping plaza being opened for business to the public without having been given all the necessary permission by all the planning agencies. Within more recent times, we have seen the spectacle of a large strategically placed building being opened by high ranking Government officials, while that building had not yet received all the necessary approvals from all the required agencies.

2.30 p.m.

Mr. President, land developers seem to have their individual development code, since they continue to flout the laws for the protection of the environment with impunity, for example, the Hillsboro Development in Maraval. This is an area that has been developed in three stages. I was given to understand that the last stage for which planning permission had been obtained was Phase III, but lo and behold, Mr. President, I am seeing the hills being further excavated into the water catchment area. I would like the hon. Minister to tell us, at some point, whether the Town and Country Planning Division has given the developers the necessary permission to extend this development into the catchment area.

It is not that there is no legal recourse at present available, but it is a question of where we fall down in enforcement. This matter of lack of enforcement has even more serious adverse implications to the development of tourism in our country. We have to realize that in Trinidad we do not have the sand and sea that attract tourists to the Caribbean. In other words, we do not have much to offer by way of traditional tourism. However, we have flora and fauna, wild life and a few historic buildings, of which we ought to make the most, and which we ought to protect and promote.

Clause 3 (1)(c) and (d) of the Bill, in giving in a more detailed form its general objective, state—and I quote:

"(1) The objects and purposes of this Act are:

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

Subclause (d) goes on to highlight further this objective. This is why I started off by saying that the objective of this Bill is laudable.

If the Government is serious about promoting tourism, it ought to concentrate on protecting the environment and promoting its advantages. In fact, the Government cannot have its functionaries indulging in the wanton destruction of our wildlife. Persons entrusted with the task of protecting our resources should not be permitted to aid in the destruction of the ecology.

The Bahamas, during its eco-tourism month, used a slogan. It is something we ought to look at. "Take only pictures. Leave only footprints." This is what we ought to be concentrating on. This Government has shown a callous indifference to the preservation of our natural resources.

I use a strong term here—callous indifference. What gives the lie to the Government's commitment towards the objective of this Bill is the lack of preservation of our buildings of national, historic and architectural interest. An example comes to mind—the Stollmeyer Castle, Mille Fleur also. The Stollmeyer Castle, which, I believe, is part of the National Trust is being allowed to deteriorate. I now see the entrance to that building being used by the occupants of the building to the south of it as their means of access. The only word to describe this is "desecration"—desecration of our national heritage.

I hope that if this piece of legislation with which we are dealing sees the light of day, the authorities will really get serious about implementation—promoting and protecting our heritage.

Several provisions of this Bill will impinge on the provisions of other pieces of legislation. It is, therefore, necessary, at the outset, to eliminate, as far as possible, potential conflicting provisions and ensure harmonization between this bit of legislation and, for instance, the National Trust Act, No. 11 of 1991, the Environment Management Act and the Municipal Corporations Act.

We have seen many provisions in the Bill where there is overlapping. In fact, one of the provisions of this Bill seeks to remove a lot of the duties in relation to planning, which the municipal corporations now enjoy, and to vest such powers in the Chief Building Officer, in particular, clause 62 of the Bill.

When we look at clause 62 of the Bill, I myself, although I believe I am a fairly experienced attorney, have had some difficulty in coming to terms with the provisions of clause 62 and the continuing provisions of the Municipal Corporations Act. I do not really see that the Bill, so far as the provisions for planning are concerned, repeals anything. There is a section that deals with conflict. I use that term, but I do not think that is the term used. I will come to that presently.

In examining the provisions of this Bill, we have to be wary of creating the confusion that now exists with regional health authorities, where a small country like ours has been cut up into so many regions for the independent administration of the health service for small pockets of the population. We must have confusion. Chaos and confusion now reign, with its attendant development of inefficient and questionable practices and the anomalous situation of the different status attaching to health care workers in the Regional Health Authorities, as opposed to those under the umbrella of the Ministry of Health.

In considering this Bill, Mr. President, we do not want to create that same sort of chaos and confusion.

2.40 p.m.

Having said this, Mr. President, I will now examine some of the provisions of the Bill which should be redrafted to remove doubt and confusion in the future.

Mr. President, I believe we ought to take our time. Actually, I do not know what is the cause for the haste. From what the Minister of Integrated Planning and Development has said, this Bill spans three administrations; to use his term it is déjà vu. I know that some of those who have been here before have been through committee upon committee in relation to this Bill and we still have problems. We do not want what happened in previous legislation to happen to this Bill. When I say that, I have in mind at the moment, the Administration of Justice (Miscellaneous Provisions) Act, No. 28 of 1996 which was probably passed without the required majority. Mr. President, that error would cost the State thousands of dollars, in addition to which it would probably have to engage the attention of Parliament once more. We, therefore, do not want to be going and coming. We want to go throughout the Bill, rationalize and harmonize the different clauses as they pertain to the different entities.

We see that the hierarchical structure as proposed in this Bill begins with the Minister in clause 4, which reads as follows:

> "The Minister is responsible for securing the objects set out in section 3 and for the due administration of this Act…"

The Minister is, therefore, the first line of authority and a great deal of power and responsibility have been placed in the hands of the Minister—quite a great deal of power and responsibility. Mr. President, with that power and responsibility must go accountability. We hear talk about accountability all the time but we do not want to just pay lip service to accountability all the time. We want to ensure that when we enact our legislation, we provide for accountability by the Minister. That is why it is imperative that we have another look at clause 4(3) which says:

> "Nothing in this section shall be construed as imposing upon the Minister, directly or indirectly, any form of duty or liability enforceable by proceedings before any court."

This has to be removed. In addition to the power and the general overall responsibility for administering this area of activity in our country, the Minister has certain specific powers. When we look at clause 4(2) it says:

> "In addition to any other duties assigned to the Minister by this Act, the Minister shall be responsible for framing comprehensive policies and for the general supervision and implementation of such policies in accordance with the provisions of Parts IV, V, VI and VII."

Mr. President, the Minister must, therefore, be accountable. If there is need for redress, the ordinary citizen must be able to get redress. If the ordinary citizen cannot go to the Minister and get that redress he must be able to go to the court to get it. The Minister must be answerable for the responsibility that is invested in him by this piece of legislation.

When we look at clause 48 of the Bill we see that the Minister has certain overriding powers. At 48(7) in addition to the overriding powers given to the Minister, a commission has been set up and that commission is given certain responsibilities by the Minister. Elaborate provisions are made giving certain powers to the commission and that commission is to advise the Minister. The Minister, however, is not bound to accept such advice and he may even go outside of that advice and do his own thing, so to speak. He must be accountable. This is a further reason I am saying that that clause should be excluded from the Bill.

In addition, clause 48(7) says:

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

In clause 49, we have where the Minister may reject the recommendations given to him by the commission. It is imperative for the Minister to be accountable.

Our Ministers are transient beings. Ministers come and Ministers go but the country remains, the people remain and, in effect, what you are doing here is seeking to provide for and protect the people. We are not really concerned, therefore, with the Ministers, whoever they may be. What we are looking at is down the road at the broader picture and at the objective you are trying to achieve.

Mr. President, if I may move from that, it is necessary, as I said earlier, for us to rationalize the powers given to the committee. First of all, there is a committee that is set up that is the development control committee which is established under clause 11(1) which says:

> "The Commission shall appoint Standing Committees and may delegate to such Committees any of following functions:
>
> (c) effecting development control;"

And a committee called the Development Control Committee is proposed to be established.

2.50 p.m.

However, when we look at the powers given to the committee and we look at section 35(1) of the Environmental Management Act, we see that there is need, Mr. President, without my going into detail here, for harmonization of the roles being played by each of these entities. We have to ensure that there is not a duality because when we look at the EMA Act, in particular at section 16 which sets out the functions and powers of the Environmental Management Authority, we see that the general functions of the EMA are to coordinate—and I am reading from (c)—"environmental management functions performed by persons in Trinidad and Tobago" and "make recommendations for the rationalization of all governmental entities performing environmental functions". So that the EMA is already invested with that authority and you do not want to vest that same function or power in the commission.

Although there is some provision later on in the Bill—I think clause 62—for consultation and a Memorandum of Understanding, the language of this clause needs really to be clarified because what we see here—I myself had some difficulty rationalizing the two—the provisions of the Environmental Management Act and the powers given to the commission under clause 36 of the Bill. There are elaborate provisions and subclause (7) says:

> "The Environmental Management Authority and the Commission may enter into a Memorandum of Understanding with respect to the administration of

> Environmental Impact Assessments and Certificates of Environmental Clearance, as they relate to a development proposal within the meaning of section 36."

It is my belief that more than a Memorandum of Understanding is necessary in this case, Mr. President. I think we should be specific as to the manner of harmonization of the respective inputs by the commission and the EMA so as to avoid confusion and chaos in the future. In addition to which, the language of clause 36 needs to be simplified and set out in a clearer manner. In due course I would submit my proposed amendments to these particular clauses.

Now, if I may jump a bit, Mr. President, to the First Schedule of the Bill, here we have the ever-present problem of transparency. You will note that, as was stated earlier in the Bill, that is one of the first objects or purposes—when I read earlier that the purpose of the Bill was to reform "town and country planning". It is designed to secure predictability, simplicity, promptness and transparency in the treatment of development applications. That transparency is important and it is important that we maintain that in the provisions we insert in this Bill. The commission, to my mind, should be seen to operate free from political control in tendering its advice to the Minister.

However, where, in effect, this commission is, what you might say, a Cabinet-appointed commission, there could be the added pressure brought to bear if the chairman is a government appointee. The chairman and vice-chairman of the commission should, therefore, be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition. So too should the other members be appointed, because this is an area where there would be a lot of scope for political engineering and we should try as much as possible, Mr. President, to prevent that.

So that, in appointing the members of the commission, there should really be no direct political—I say "direct" because we can never avoid, to some extent, some political interference, but we should at the outset try to prevent it. I believe that if it remains as is—that they be appointed by the President, full stop—then there is room for manoeuvring. So that in the First Schedule dealing with the membership of the commission, I would say that paragraph (a), after "appointed by the President", we should have, "after consultation with the Prime Minister and the Leader of the Opposition", and the same at the end of that subclause.

Now, when we look at clause 23 of the Bill, Mr. President, it provides that:

> "Where, in the opinion of the Minister, the objectives of any development plan require that any land be subject to compulsory acquisition, the Minister

may instruct the Commission to prepare the plan, or a modification of the plan, designating the land as subject to such compulsory acquisition and describing—"

This here is a provision that might be open to abuse because a person might well be deprived of his property at the fancy of some money magnate or business magnate. We already have legislation for compulsory acquisition of land for public purposes. I do not see why this particular provision should be inserted in this Bill. My recommendation is that this clause should be removed. In any event, if this clause is included, or a modified version of it, this might well mean that this is one of the provisions—I am not saying it is the only provision, but would be one of the provisions—in this Bill which would require a special majority because you might very well be infringing the provisions of section 4 of the Constitution.

Now, Mr. President, the Minister stated that this Bill considerably truncates the powers of the Minister, as was contained in the previous drafts. I am happy that this is so because what remains is still considerable. What remains, especially in the form of clause 48 and this same clause 23, does give cause for concern. As the Minister has pointed out, there are 107 clauses in the Bill. I have not had—well, should I say—not the opportunity—I have not been able to go through all. I am sure that there would be others. I have just highlighted a few that have given me great cause for concern. However, I would, at the committee stage, submit further amendments to this proposed Bill. Once again, I would like to repeat my call for the Bill to be sent to a select committee because, while it is true that this exercise has been gone through on several occasions previously, to the point of being repetitive, I would say it does not matter how many times you have gone through it, the objective really is to ensure that when you enact statutes, such statutes are properly enacted. Thank you, Mr. President. [*Desk thumping*]

Sen. Prof. Julian Kenny: [*Desk thumping*] Mr. President, first of all, at the risk of incurring the displeasure of a certain part of the media, I would like to take this opportunity to congratulate Sen. Roy Augustus on his appointment [*Desk thumping*] as Minister in the Education Ministry. That having calmed me down a bit, I hope that you will allow me to express the feelings of exasperation, not so much at the Bill itself—I have spoken on this Bill. This is the fourth time I am speaking on it and I have served on three committees—but the way in which we in the Senate, we Independent Senators, are treated by the system.

Mr. President, some time ago we received this, which is the Land Bill 2001 and, seeing that it is an area that is of interest to me, I went through the thing to prepare myself. I went through and I made a whole series of proposed

amendments. Now, this was back in early March and it had taken me several hours. I do not have a secretary. I have to do it myself. Then, about two weeks ago, I received the printed version in which all the errors, and many of the typographical errors, were corrected, but even then, you know, I had to go through to check what I had prepared against the new one, to delete. I should not really be bringing amendments of grammar and spelling and English and so on but I had prepared all this and it has wasted a considerable amount of my time, which I think is very unreasonable for Members who have to prepare themselves and who have to speak.

3.05 p.m.

Having got that off, Mr. President, I would like to make a broad observation: I do not think that it is fair to say that only the attorneys would have an understanding of this legislation. Quite frankly, attorneys are perfectly capable of writing rubbish, as I would demonstrate. [*Laughter*] [*Desk thumping*] Thank you, Sen. Lucky.

Mr. President, a little bit of biology in development—there is a lovely model called the epigenetic landscape, which is something created by Prof. Waddington many years ago, for the young biologists to get an understanding of the processes of development.

In the epigenetic landscape you start on a mound and as you leave the mound you would find that you are offered two pathways. As you get into one, you find that you would come into another where you are offered two pathways. By the time you get to the bottom of the landscape, you have followed a particular path. My question is: After all this, after the 15 years, are we on the right path? Because with development, in the biological sense and physical development, once you get down that path it is very, very difficult to go back up to find a more just and equitable pathway. This is the problem that I have with this legislation.

I know that the people who have prepared this will fiercely defend it sometimes to the point of writing to third parties remarks about my intellectual abilities. I do not mind these things; I have become quite accustomed to them. I have been insulted by the media, the Chamber of Commerce and by people of the university, just simply for expressing a viewpoint.

The main point I make here is that we have got a Bill which has many defects. I wonder if, in fact, it can be operated. I ask the question: Have we looked at other models of legislation? Not necessarily to copy it, because the Town and Country Planning Act was copied from the United Kingdom

legislation. We all know this. They use words like “copse”. If you ask in Trinidad and Tobago: Do you know what a copse is? They would say some kind of big policeman. The words mean very little in the vernacular, just like in part of this thing there is reference to a meadow. Now, this is frightfully British.

Sen. Daly: That is a club.

Sen. Prof. J. Kenny: Similarly, I would point out that this is the fourth time that when something is being described—for example, we are describing a fish—in the interpretation clause. The term does not appear anywhere in the Bill. I have not seen the word “fish”; but anyway it is necessary to describe it. It goes on in the description and talks about fish including coral and so on and so on, down the line, including eggs and sperm and sprat. People have actually written this?

It is pointless explaining the thing at length, but I have to point out that there is so much messy drafting in this thing. A sprat is an archaic English term for a small fish like a Joshua. If you ask anyone in Trinidad, do you want some sprat? They might think anything—[*Laughter*]—and here are people writing this, and there are many, many examples of this sort of thing.

If in the legislation you are going to use a word: you want a common word to say “an aquatic animal”. All that you need to do to extend the meaning of aquatic animal to take in developmental stages is to use a few words. The dictionary meaning of aquatic animal is an animal that lives in water, and then if you want to extend the meaning of “aquatic animal” you say: “and its gametes, lavae developmental stages”, instead of going into this long thing and mixing up corals with sprat. It shows us that we are still at the stage of drafting using other people's models. That is by way of introduction to what I have to say.

Mr. President, if we go back to the landscape, it has been 15 years that this thing has been going down the landscape. There have been several changes left, right and centre. Is this the only way? Is physical planning more important than social and economic planning? This is the question that really has to be answered. I was a bit disappointed that the Minister did not explain to new Members of the Senate how important physical planning is and its relation to the other forms of planning. He is the Minister of Integrated Planning.

I would also like to take the opportunity to point out that I am not going to go through all the history of it. I have, in fact, written out the history from my perspective. It is a fact that in 1998 it passed through the other place; it came to the Senate. Former Senator, Mrs. Carol Cuffy Dowlat chaired the Select Committee. Concerning the circumstances under which that Bill lapsed, my

perception is somewhat different, because I was handed the final report of all the amendments for signature, but I had already submitted a minority report, as did somebody else. Then, very quickly, people went out and came back; the Chairman came back with a report that the Committee was unable to complete its business. It is a slightly different perspective.

It went to a Joint Select Committee. The Minister is absolutely correct, the committee met twice; it is in the Minutes of the Joint Select Committee. The Chairperson was Minister Persad-Bissessar; she was the then Minister of Legal Affairs. The Minister asked me—it is there in the Minutes of the first meeting—to prepare a brief for her, which I did, a 12-point brief which was the subject of the second meeting of the committee. At that meeting, the committee, which is a Joint Select Committee of Parliament, asked for a written opinion from the appropriate authorities, on the possible requirement for a special majority of that Bill.

In fact, many people—I had consulted people outside and even people from the Government side—told me quite bluntly, "You are quite right, this thing requires a special majority," and why it required a special majority. "But it is politics." Now, I am not involved in politics in that sense, but, certainly, if we as a Parliament are going to pass legislation then we have to do the thing properly and get it right.

It is a fact that the opinion was never forthcoming, in spite of written requests from the committee to the appropriate authority to give us a written opinion, and therefore the committee just folded up. Most of the people I have spoken to have told me that is, in fact, so. I am told by a Minister of Government that, in fact, two opinions were written, both of them supporting this notion that I had that this Bill required a special majority:

I am going, a little later, to explain the foundation of my view and if any attorney present will tell me that I am talking rubbish, I am perfectly prepared to accept it, but you have to give me the argument of why I am misled, because our Constitution guides us as Members of Parliament as to what we may or may not do. So this is by way of explaining a bit of the history.

Mr. President, I would like to turn to the subject, in a very academic sense, of what is policy. Policy is a guide to action. You have certain goals and the policy is the sort of framework which leads you to that goal, and you may use different strategies to get to that particular goal. One strategy, for example, in the case of planning and equitable use of our limited resources, is to go one way; another might be to go another way. Quite frankly, although I am, in a sense, very, very

unhappy with this legislation, I am still duty-bound to assist the parliamentary process in developing legislation. Consequently, I made proposals, a whole series of amendments.

My personal view is that given the nature of our society, what we really need in this country is a fairly powerful and comparatively large national planning commission or council, because for all the physical planning you do, if you cannot address the social issues, then you are doomed to make plans that mean absolutely nothing. So my view is that the broad planning vision for the future, clearly, has to be led by the administration who is elected by the people. But such a planning commission should really involve, in a very balanced way, the public sector, the political processes and the business community. I do not like the word "stakeholders", but there are an awful lot of people who have an interest in this country who are just simply ignored, and I would broaden this national planning commission to include a comparatively wide cross-section of civil society: non-governmental organizations and community-based organizations a fairly large number of them, so that planning will get the feel of what the people are after or what they want, what their aspirations are.

Everyone knows, of course, that I am interested in the environment. There is, in fact, a body that represents all the established environmental organizations, but I would go further than this. I would have that body play a major role, but I would also expect to see representation from specialist interest. For example, people with more interest in the forests. I would like to see people from the remote areas of Trinidad forming part of this larger body. This would then look at our directions and guide the Government and would let them get a feeling for what the citizens of this country really want.

3.20 p.m.

Not this business of somebody sitting in an office and saying, build a ferry port at Toco; then we will build a long line fishery; then we would put a bunker and so on. We are all citizens of the country and I think the political process has to recognize that for so many decades it has been a top down process. In fact, this is the basis of the motion that is supposed to be heard, in part, today.

Having got that off my chest, I would like to ask a number of questions. The first question I will ask is: is there within the Government some centralized source that looks at plans? And do not tell me the Interim Planning Commission because in one particular part of Trinidad, there are three plans. I refer to the island of Chacachacare. Some of my colleagues in the Senate have seen a little thing I have

passed around to show them what has happened. The Chaguaramas Development Authority has a plan. It cost the taxpayers $1.2 million to develop a national park on the Chacachacare Island, apart from the mainland. This involves an eco lodge; a dive lodge and a public campsite with all the facilities. The board of the CDA has approved that plan. At the same time, there is a tourism master plan that we were informed in this Senate is the national plan. And what is the tourism master plan for Chacachacare Island? A 250-room hotel. That means the exclusion of we ordinary Trinidadians. Both of these plans come under bodies that are under one ministry. So one Minister has two plans.

Then there is clearly a third plan that we cannot really speak about because we do not know the details. But clearly, there is a military plan. The Ministry of National Security must have some kind of plan, bearing in mind the evidence that I have shown Members of the Senate. This plan is totally incompatible with using the convent as an eco lodge. So we have problems like this within the Government. We have an interim planning commission, I do not even know that they are familiar with these plans; possibly they are.

Leaving that behind, I would like to turn to some of the core issues. I had hoped that the Minister would have spared me a bit because there are four issues that might have been raised that would have allowed me to scratch off my four issues. The first core issue is I ask the question: Is the problem of chaotic unplanned development, one of defective legislation or one of failure to enforce planning law? Is it both? If it is defective legislation, the immediate question is why not amend the legislation? Why do we wait 15 years before we amend the legislation? If it is lack of enforcement of legislation, then whom do we blame?

Physical planning gave us the Lady Young Road and it would make a beautiful entry into the City of Port of Spain. The Highway Code prohibits entry onto highways. So here we have a beautiful, physical plan and 30 years later all the squatters have their shops and so on. Are we serious? I cannot blame this Government or any Government. To me it is essentially part of our culture. Our culture is the culture of populism, let the people have what they want; this gets the votes. This is why I was so alarmed when I was hoping that the hon. Minister of Transport would get her free way to develop a national transportation policy when another branch of the Government is saying, "you know, PH taxis provide a service". So what message are you sending? What message are you sending about squatting? I really do want to see firm physical planning but I want to see, as a handmaiden to that, some reasonable attempt at enforcement.

Mr. President, I am addressing the Minister but you know what I mean. I am not taking him to task. He is a captive as I am, but when I asked questions about enforcement notices, the Minister gave me an honest, straightforward answer; he did not beat about the bush. In 1998, there were no enforcement notices. Here is a country in which we are told that 80 per cent of the buildings and building adjustments are done without planning approval. In 1999, there were four, one of which is statute barred; and in the year 2000, there were only two.

It would seem that one of them was one in which I did what every citizen ought to do. I wrote to the Town and Country Planning Division. I do not know how many people write to the Town and Country Planning Division but I would be horrified if I thought that the Division only acted because a Senator wrote a letter. I think the most humble citizen, when he sees something that is wrong really ought to be in that position.

So you can make all sorts of plans. The irony of it is that we have today a biodiversity and action plan. The hills are burning and what do we get? Little jingles about "do not burn." The jingle that we heard 10, 20, 30 years ago. Now we have a beautiful strategy and action plan. Someone asked me: What do I do with this? I was polite. That is the first issue.

The second core issue is that the Bill requires a special majority. I sincerely hope that in the Senate, anyway, we are mature enough to forget the partisan politics and look at law. Senators would have read their Constitution and it is quite clear on what we may or may not do. I am not going to read the whole thing, everyone is familiar with it. Section 13 of the Constitution prohibits us from passing any law that is inconsistent with the basic rights of clauses 4 and 5, without a special majority. What could be clearer than this? Well, what has to be clear is that we have to demonstrate that it is inconsistent with rights and I maintain that it is. There are six attorneys here. I am sure they will not necessarily agree with me, but will see the point that I am aiming at.

Our Constitution is different, in that under clause 4 we have rights to enjoyment of property; not just simply in the legal sense of owning, acquiring, holding and disposing of property. There is a landmark case where the High Court interpreted this right to enjoyment of property, not a right to property but the right to enjoyment of property. This is High Court Action No. 2443 of 1982. It is the case of Prakash Singh versus the Attorney General. Justice Deyalsingh was ruling and he said, among other things, referring to the right to enjoyment of property that:

> "It is not limited to rights of property, in the strict legal sense and it must not be so limited."

3.30 p.m.

What Justice Deyalsingh did—and it has not been set aside—is that he says, "listen, you have undefined rights other than the strict owning of legal property." The outer end of the envelope has not been defined. So when I read this judgment, or this decision, or this clarification of what this enjoyment means, as a citizen, I expect that I would have a right to build whatever I want to build. If I want to build of tapia house, I do not want any planning commission telling me I cannot build a tapia house because my grandfather built a tapia house, and so on. But in the interest of everybody, you have to make laws to protect society against things like: I build a tapia house and the wall falls down and it breaks my back or something and then the State has to pay to keep me.

So my point is that I am the first one to decide what my rights are and it is for the State or for Parliament when it passes a law, to make it quite clear that we know about this issue and we are going to pass the law; we are going to set up a body; we are going to set up a commission; we are going to set up building codes, and out of these building codes I will know that I am not permitted to build a certain type of building. Because three-fifths of the Senate and the other place pass legislation that was an exception to—that is what the Constitution tells us. It makes it quite clear. I will not repeat the other legal argument; I think I will leave that to legal people, but the Town and Country Planning Act, in fact, required a special majority which other people might care to—consider.

But this is my simple explanation as a layperson as to the question of the special majority. I say again, whatever goes on in the other place, I see no reason why we, as mature citizens, should not look at this thing and put in the appropriate recitals, and so on, and pass a piece of legislation with a special majority.

I think it would be a very foolish Opposition to oppose carefully thought-out legislation, especially when they are in Opposition, because it would only entrench perceptions that Opposition is just obstruction. So I am of the view that it is possible we can do this. Even though I do not especially like the format of the legislation, I would be quite happy to support the Government in the interest of proper rational development in this country.

The second issue is that, it is my view, having read the Environmental Management Act, that this legislation, the Planning and Development of Land Bill, as well as the Minerals Bill, as well as several other bills that came before the Senate, are all subsidiary to the Environmental Management Act. If you read

the preamble to the Environmental Management Act and you read what the Authority is supposed to do, it makes it quite clear that the Authority has a coordinating role.

Now here we are debating, in my view, subsidiary legislation, and I have not seen the chairman of the board of the EMA here, or the CEO. I realize, of course, that looking at this paper—I had to scan it very, very quickly—the actors and roles under the Planning and Development of Land Bill, 2000—I do not know if things have changed in 2001—at the end of it you will see that there is a reference to the WASA and the Environmental Management Authority and the Chief Designs Engineer on page nine. So, clearly, the perceptions of the Planning and Development of Land Bill, the understanding of the people who are responsible, is that the Environmental Management Authority is just a parallel body. You can have a memorandum of understanding with them.

I think that other people might be dealing with the question of clause 48. But my point is here, that it gives enormous micro-management powers to the Minister. The minister already has this. This is where I raise the question of what sort of model are we using? If we use a common model in the Caribbean, physical planning falls under a Minister pretty much like it stands at present. When you get to larger countries and more complicated administrations, you will find real devolution to national bodies and to regional bodies, responsibility. And you know, the term: "The Minister may give general or special directions" to so and so, is something that is lifted straight out of UK legislation, but it does not include the normal restrictions that the UK legislation requires. Almost everyone that I have read makes it quite clear when the Minister is giving directions, he is not micro-managing; he is giving directions on policy, policy changes and international treaties and things that bind the country.

Now if you are going to move to the model of setting up a commission, you do not need to have this clause 48 at all, because the Government of the day has the authority. If the commission decides to go off and do something that may go against the Government's policy, you fire it. That is the ultimate control. But I am not saying this Minister; I am talking about 20 years down the line you might find some minister who is responsible who does not have the aesthetic sense of our current Minister of Integrated Planning and Development. We are making legislation not ad hominem, but we are making legislation for the next 25 years.

So I am still very concerned. You will notice in the Telecommunications Bill, originally it was the Minister to whom they gave the authority, but I think it was Sen. Thomas who, right off the mark, said, "surely only on policy", and I think

the Government graciously and very wisely accepted this. My view is that with all our legislation, if we are talking about devolution of authority, we really are talking about Ministers and Cabinet being policy makers and monitoring how their policies function; how do they attain the goals, and if they do not attain the goals they may want to shift the policy to attain the goal. In which case, the Minister advises the commission.

We seem to be working on a hybrid model, a Caribbean "Doctor Politics" model of the Minister having control and then giving it to a body and saying: we do so and so, and if the body decides—the Minister then can override. Other people, I am sure, will refer to this.

A part of the Bill, to me, that is highly offensive to many of the citizens of this country is clause 23(1). This is the clause that has caused a considerable amount of public concern.

3.40 p.m.

I might point out that this clause, in essence, entrenches the power in the Town and Country Planning Act of 1969. When they talk about development plan, under section 5(3)(c) it may be designated "as land subject to compulsory acquisition by the Minister". In other words, when the plan is being developed, the existing law permits the Minister to designate that land for acquisition. Then it goes on to the acquisition in section 31(1) where it talks about "public purposes within the meaning of the Act". The Minister may acquire land for a public purpose although the Town and Country Planning Act does not specify what is a public purpose. When you want to find out what is public purpose, you go to the Land Acquisition Act and it is not specified there. I am told that it is in the common law. I am afraid that it is beyond my research means to find out exactly what is the general understanding in the common law and what is the public purpose.

What is most important about the Town and Country Planning Act, section 33 is that.

> "The Minister may, by way of sale or lease, dispose of land acquired by him…or the other body of persons for development in accordance with permission granted…."

Under the existing law, the Minister may decide for example, that he is doing something on the North Coast Road in Blanchisseuse. I have a property and there is a plan for this road. In the plan the Minister may say that lot 220A is acquired

as part of the plan. He can do this. It would not affect me in the sense that I own two pieces of property. I would like to continue to go to Blanchisseuse to look at the sea and contemplate on the foolishness of the world. If they took my land I would be affected. What have I lost? The view of the sea.

There are many citizens of this country whose sole asset is a plot of land which was handed down. The Minister can take it under the present law. This has not been done for the simple reason that the only plan we have is the National Physical Development Plan which was passed in Parliament in 1982. There has been the odd sort of municipal plan.

Historically, land acquisition has been essentially an ad hoc thing. If they want to straighten a river, build a playing field, or a school they take a bit of land. These are all public purposes. The Minister has the power to take my land as part of a plan. Suppose he wanted tourism development at Blanchisseuse and my little two bedroom cottage is in the way, he could take it as part of the plan. Not only that, he could take my land and sell or dispose of it. This is what makes it so offensive. In the existing legislation, it is not done.

In the Bill there is a rather peculiar proposal. Look at clause 23. I think Sen. Morean referred to it. The planners sit in air-conditioned offices, look at their maps on the wall and have their grand design for the physical plan, not necessarily for the social or economic plan. Once that is in the plan, the Government or the Minister has five years in which to decide whether or not he would use that land. Can you imagine that you own a piece of land; it has been in the family for 100 years; the planners agree to take the land and it is designated for acquisition? It has no value whatsoever. You cannot raise a bank loan on it or do anything with it for five years. Is this reasonable in our society where so many people have one little asset? It is not as if they have a Mercedes, or a townhouse here, or a flat in Miami. You are talking about the citizens of this country.

I had the shock of my life at Toco. At the invitation of people, I went there. I had this horrible experience of a man who was older than I am, crying and shaking. His first knowledge that the State was acquiring his property was when two persons came to measure it. How can you do such a thing in a country like this? I am not talking about England or the United States. I am talking about Trinidad and Tobago. Now you will say you put it in a plan and this poor old "fella" or anybody else in that position whether in Toco or Cedros will sit there. He does not know. The onus is on him to find out. The law requires you to serve notice as a part of this plan. If you cannot find the owner it has to be the occupier.

In the outlying areas of this country, land ownership is so complicated. It has happened in Tobago as well. You would find that a person would hand down a property and 10, 12 or 15 persons would have an interest in it. This is highly offensive to our democracy. I cannot support this kind of measure. If the State wants to acquire property and they are saying that they can sell it to somebody else as part of the State's development plan, then I am afraid, we have to part ways. Whatever the physical plan is, remember that you are on this epigenetic landscape. You have gone down the hill and it is very, very hard to go back up. Again, I repeat it. Forgive me for going on at length. I find the whole thing very offensive to our budding democracy and the rights of our citizens under section 4 of the Constitution.

I now turn to another point which is a matter of great concern. The Bill assumes the regional corporation and the municipal authorities have the human and financial resources to develop the regional plan. This is a small country and we all know that the municipal and regional authorities do not have the intellectual and financial resources to deal with that. In the case of my little property at Blanchisseuse, they would look at my building plan and septic tank to see if they conform. Can you envisage a situation in which a regional authority is looking at a whole area of about 50 or 60 square miles where there may be a wide range of physical development? I ask the question, how many of these authorities have full-time professional engineers on their staff? You will still find that some of them are still functioning with a "fella" who came up the works. He used to inspect septic tanks.

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

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

Question put and agreed to.

Sen. Prof. J. Kenny: Thank you Mr. President and Senators. I would not be very long, but I have to go on to a couple other points. Clause 75 caused a great deal of concern outside. I have read it over and over and I still do not understand how any law may cease forthwith to have effect. It is illogical. There are attorneys here or maybe the Minister can explain to me in his winding up the circumstances under which laws cease to have effect forthwith. To my lay mind it does not make sense.

3.50 p.m.

The other point I would like to make is that the Bill, in clauses 91—9, lays down procedures for appeals to the Environmental Commission. I find this a bit

strange. I am told it is permissible. The Environmental Commission is a high court and normally the Judiciary organizes its rules of procedure. I wonder whether it is necessary. When someone appeals to the Commission, he is only appealing on matters of law, not on equity. It does not make sense to me. I hope I have not bored the Senate and I hope that my comments are interpreted in the spirit in which they are made.

I turn to my final point, which is the question of the editing of legislation. This is 15 years in the making and still we see a number of strange things happening. I hope that Sen. Daly, who denies having an expertise at drafting legislation, will not take me to task. Like Biology, a person can read a book and learn something about it. Sen. The Hon. Lucky and I had a little conversation and she was explaining to me how, when one is writing the law, one wants the simplest, most straightforward things that everybody understands. In fact, she was giving me definitions of "plant" and "animal", which I thought brilliant for an attorney-at-law. She may have done studies in Biology at Convent.

I have to give some of the examples. Anyone can go into a good library and get books on legal drafting. There are different styles in different parts of the world. It is a basic principle in legal drafting that if the word in the law has the same meaning as that in the dictionary and there is no ambiguity, you use it. You do not have to interpret it. When you make your interpretation clause, you want to either restrict or extend the meaning of a word in the Bill.

Am I wrong? Is this not normal? I have gone through this Bill and I would like to cite a couple examples. The cases may be found in the interpretation clause, clause 2 of the Bill. The term "environment" is defined. This is a modification of the description of the environment in the Environmental Management Act. The only modification is that they put in, in parenthesis, "including plants and animals".

Natural resources in the Environmental Management Act include plants and animals. This is totally unnecessary. It does not extend the meaning of the term. I question why. In fact I suggest that instead of repeating the definition of the environment, we use just 12 words. The words are: "environment shall have the meaning defined in the Environmental Management Act, 2000." That is simple and straightforward. I used 12 words where the Bill uses 36. This, to me is totally irrational. Why try to modify something? Can you make it better?

The word "fish" shows you how we on the Independent Bench have to work without support. The word "fish" is defined in the Bill and I have gone through

trying to find "fish" in the law, and there "ain't" any fish. If someone felt it necessary to talk about an aquatic animal, I would have suggested, instead, embrace the 21st Century; use a simple term like "aquatic animal" and give it extended meaning to the gametes and the larvae and developmental stages. An aquatic animal in the dictionary is any animal that lives in it.

I have already mentioned the little story about the sprat. I am told that I may not recite the nursery rhyme, but the only people in Trinidad who would know what a sprat is would know it from the nursery rhyme, not from a fish. Then there is the absurdity of the definition of "fish" including a fish. There are numerous examples like this on which I am not proposing amendments. I am proposing amendments to the substantive things.

One of the most remarkable things is that they have defined land in the Bill. Reference is made to "any land underlying the territorial waters" and so forth. In the 21st Century, in fact, in the 20th and 19th Centuries, what was below the level of the sea was "seabed", one word. There is an international seabed authority. Why are we talking about land including land under sea? If they want to say that land includes seabed, why this complexity?

Forgive my going back to the environment, Mr. President. In spite of having copied the definition from the Environmental Management Authority Act, I have noted here an error in the final version. There is a comma after marine, which makes nonsense of this definition. Then, there is the word "sea-bed" with a hyphen. That word does not appear anywhere in law or in the English language. There is "wet-lands" as two words instead of one. "Wetland" appears in other legislation; appears in international treaties. Why this business of not seeing what are errors of competence?

This reminds me of reading people's PhD theses. I supervise 15 PhDs and 14 MPhils at the University of the West Indies, and two PhDs abroad. One of the things that struck me with many of these theses is that it is almost impossible, with weak work, to get the student to change. I always used to tell them, when they gave me the draft. I scored it, or I tore it up and said start all over again. They do not like this. It is sloppy drafting; it is carelessness; it is wasting the time of the entire Parliament. It is wasting my time repeatedly because this is not the first time that I have said this. I have said this in committee.

Turning to some of the other terms, I was a bit concerned about "compliance and immediate compliance". If there is law and you want to enforce it, you must have compliance and if you do not have compliance, you hit them on the head.

Why soften it by saying you will have compliance? This is a kind of open-ended thing that allows people to do things, and then you have "immediate compliance".

Sometimes I am mystified at some of the things that I read. In clause 3(1)(d), the objective is to promote the diverse cultural heritage of Trinidad and Tobago. It goes on to say: "as it finds expression in both the natural and built environments." I do not think that the people who write this understand the meaning of cultural heritage. It is not the Prime Minister's Best Village Programme—all wine and jam and carnival and so on. Cultural heritage is everything. It is the way in which we behave.

4.00 p.m.

And it is the accumulated behaviour over the years, as well as our projections, that is cultural heritage. I do not like it but the cultural heritage of this country is burning the hills; that is part of the heritage and it has been going on for 200 years. Our cultural heritage is squatting, it is messing up the rivers, it is chopping down the mangroves, it is overhunting, exterminating animals, pollution of air in the natural environment as well and PH-taxis. What does this mean and where does our cultural heritage find expression? Is it gobbledegook?

Anyway, Mr. President, I am winding down. It is quite remarkable because if you look at clause 29(2)(b), I suggest that some Senators might look at this clause. This is an exclusion of certain activities from being part of the plan. Highway maintenance where the level of the road is unchanged is deemed not to be development of land.

Mr. President, every time there is a general election the road goes up by 10 centimetres and the quarries are activated and there are more floods, dust and confusion. How can you write that kind of thing when you see it with your eyes? Mr. President, if you go to St. Joseph, up the hill, it is about a metre above, people have to build ramps to get out and they write this kind of nonsense.

I am suggesting an amendment to the Bill, "excluding road resurfacing". As it is written it says: "raising the level of the road." So, to me, it is just totally careless.

Mr. President: Hon. Senator, you have two more minutes.

Sen. Prof. J. Kenny: Thank you, Mr. President. Notwithstanding my criticisms, I am very concerned. There are certain things the Bill has brought to the fore; some are public health aspects that really need to be addressed. I think the issues I have raised here have to be issues that every one of us must face, in

the light of the Constitution, section 13, which tells us what we may or may not do.

Thank you, Mr. President.

Sen. Dr. Jennifer Jones-Kernahan: Mr. President, permit me to express my profound sense of gratitude and privilege for being given the opportunity to stand in this honourable Senate, to make my contribution to the questions of the day on behalf of the people of Trinidad and Tobago.

Firstly, Mr. President, I would also like to join my colleagues in thanking the hon. Independent Senators for their most gracious, warm and cultured welcome extended to us which would have served greatly to ameliorate the butterflies which one experiences, naturally, in a new and potentially intimidating environment. I was informed by my more experienced colleagues that none is immune from this.

The past few months have been a period of enlightenment, observation and an opportunity to study the masters of their craft engaged in the time-worn art of debate, discussion, negotiation, repartee—timeless art forms which I have seen used most skilfully and artfully here, especially by the hon. Opposition Senators—our own modern-day, real-life political Don Quixotes. You know the legendary figure, Mr. President, who rides out clad in his armour, riding his horse, tilting at windmills, attacking the invincible and defending the indefensible.

Mr. President, be that as it may, I feel that I can assert without fear of contradiction that with regard to the level of debates in this honourable Senate, as the saying goes, it does not get any better than this. Indeed, I have no doubt that the hon. Members of this Senate would join with me as I express, personally, my deepest admiration and heartfelt congratulations to the hon. Minister of Communications and Information Technology for the patience, wisdom, wit and charm displayed as he piloted the Telecommunications Bill through a marathon session in this Senate. It was my first time experiencing this kind of session and I was deeply impressed. However, I must admit that I was somewhat jolted out of my open-mouthed awe at the debate, by reference in this Senate, to Government appointees as being flunkeys.

Mr. President, I took the precaution of ascertaining the meaning of the word "flunkey" in the *Nelson Contemporary English Dictionary*, which gives the meaning as a "footman or toady". The same dictionary gives the meaning of the word "toady" as "one who flatters in order to gain favour". Mr. President, I would like to take this opportunity to apologize to all past and present appointees,

regardless of the political regime under which they served or serve, having no doubt, that by and large, they would have been citizens of integrity, commitment and loyalty to Trinidad and Tobago, who have served and are serving with distinction, present company included. It is most unfortunate that they have been indiscriminately and carelessly stereotyped as flunkeys in this Senate.

Mr. President, are we to understand that according to the origin of one's appointment to serve one's country that categories exist to wit: government flunkeys, opposition flunkeys and presidential flunkeys? It is a horrifying thought. Mr. President, however, I am quite certain that this was just a lapse by the goodly Senator into the culture of the snarling tiger because I have heard from the Senator's own lips how much he abhors churlishness and really, his customary elegance of language, decorum and charm are normally above approach. Mr. President, at least nothing has been said here by the goodly Senator to warrant the attention of the Privileges Committee so the Senator need not be afraid.

The question has been raised about a perceived ambiguity in this Senate in the psyche of the populace with respect to the memory of the late Dr. Eric Williams. As a political and cultural product of the 1970 mass movement, which I dare say provides the ideological basis for the challenge to this legacy of the father of the nation, I claim the right to say just a few words on the subject. Mr. President, my colleague here is looking at me, I think he is doing the maths with my reference to 1970—I may have inadvertently disclosed my age.

4.10 p.m.

Mr. President, I freely admit that the bright and beautiful mantle of youth has long since eluded my desperate grasp but, you know, there are compensations and, I think it happens to the best of us, in that, we get to don the cloak of experience which saves us a lot of grief. However, I would like to propose—maybe it is a new social theory and I will come under a lot of fire for it, but we are West Indians with a peculiar social history that allows for multiple father figures. I would like to suggest that, in that context, we may view the late Dr. Eric Williams as our biological father whose legacy or dream for an independent post-colonial Trinidad and Tobago was not bequeathed equally to all his progeny, in that, maybe he was unwittingly unable to communicate, inspire or motivate almost half his flock, wherein was sown the seeds of the self-destruction of the dream.

Mr. President, like many West Indian biological fathers, ours has ridden into the sunset leaving the de facto role to our own illustrious Prime Minister, the Hon.

Basdeo Panday, to whom has fallen the historical task of uniting, motivating and inspiring to even greater heights of achievements all the inheritors of the dream, in a process of social transformation and healing never before experienced in this country. I dare say that the jury is still out on the question of the father of the nation and that history may yet decide differently. Little wonder, then, that there may be some ambiguity in our collective psyches.

Mr. President, I am here today to support the Planning and Development of Land Bill, 2001 and, in order to set the stage for my small presentation, I would like to read a quote from the philosopher Jean Jacques Rousseau. It is taken from *The World's Wasted Wealth Part 2* by J.W. Smith. The name of this piece is "A Discourse on The Origin of Inequality" and Jean Jacques Rousseau wrote the following and I quote:

> "The first man who having enclosed a piece of ground, bethought himself as saying, 'This is mine', and found people simple enough to believe him, was the real founder of civil society simple. From how many crimes, wars and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes or filling up the ditch, and crying to his fellows, 'Beware of listening to this imposter, you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody.'"

The history of modern civil society is indeed the history of unrestricted private ownership of land, and the concomitant shift from a social responsibility for land use and protection to private responsibility for such use and protection. I suggest that therein lie the seeds of the global crises facing mankind at this time. Mr. President, all materials to satisfy human needs come from land. Therefore, it is self-evident that the principles and the policies of rational land use and protection cross boundaries of private ownership, even of national responsibility, when one considers that land is a limited resource and the sustenance of all life.

Mr. President, over the past three decades there has been a tremendous amount of international debate, conferences and resolutions, which recognize the gravity of the problem of unsustainable land use and consequent irreparable damage to the global environment. The Fifth Commonwealth Conference on Development and Human Ecology was held in Georgetown in 1979 and the endorsements of its recommendations by the Fifth Caricom Conference of Ministers responsible for health was held later in July of that same year in Antigua. These representatives of the Caribbean people arrived at the consensus, and I would like to go into a bit of detail on the points that they raised, because

they deal very directly with what we have accomplished here at this point in bringing to the Senate this land use Bill, 2001.

Mr. President, the resolution asked that the Commonwealth governments establish, without delay, task forces, development planning commissions or other similar devices which should have the following functions:

1. The review of developmental policy for an integrative ecologically based perspective;
2. The human ecological assessment of specific development projects;
3. The drafting of legislation designed to protect the environment, including the establishment of environmental policy norms and standards;
4. The establishment of guidelines for the rational utilization and management of natural resources;
5. The development of a conservation policy to ensure the protection of selected areas of the nation's heritage or natural ecosystems;
6. The review of land use plans including the planning for new human settlements and the rehabilitation of existing settlements; and finally,
7. The fostering of communication between community members and the Government to increase understanding of both parties for the need to share the responsibilities inherent in the maintenance of an equitable ecologically balanced society.

Mr. President, this was 1979 right here in the Caribbean. Our leaders, our delegates, took note of the need for such planning, for such laws.

In the international arena, one of the most celebrated Earth Summit conferences was held in Rio de Janeiro, Brazil, as part of the United Nations Conference on Environment and Development. Senior scientists from 70 countries got together and spoke out about the need for a global approach to environmental planning and land use. Agenda 21 of the Earth Summit, section 5.3, poses the problem as follows:

> "The growth of world population and production combined with unsustainable consumption patterns places increasingly severe stress on the life supporting capacities of our planet. These interactive processes affect the use of land, water, air, energy and other resources."

Since 1992, there have been several other international summits that have sought to encourage reluctant governments of the more developed countries as to the

importance of looking very seriously at the whole question of land use, land development and environmental matters. Some of these conferences have been:

a) The Global Conference on Sustainable Development of Small Island Developing States in Barbados 1994;

b) International Conferences on Population and Development in Cairo 1994;

c) World Summit on Social Development in Copenhagen in 1995;

d) The Fourth World Conference on Women in Beijing 1995; and

e) The Second US Conference on Human Settlement, Habitat II in Istanbul 1996.

Mr. President, the reality is that small nation states such as ours find ourselves under tremendous pressure for rational land use and development due to the conflicting requirements of housing, of industrial developments, of agricultural developments, recreation, forest reserve requirements and the preservation of ecologically sensitive areas.

Allow me to quote from a Green Paper, a document prepared by the then Ministry of Agriculture, Land and Marine Resources entitled *Report of the Team Appointed by Cabinet to Prepare a Draft National Policy for Food and Agriculture* in 1993. Some of the statistics given in this document would serve to give us a sort of background to what we are talking about in terms of land in Trinidad and population and so on. It also elaborates on some of the problems recognized by this highly technical committee, Mr. President, in looking at our land and our forestry resources.

This document quoted the total population at that time, based on the 1990 census, as 1.23 million and the population density was quoted at 24.6 persons per kilometre squared. It said that this is exceeded only by that of Barbados, Grenada, St. Vincent and the Grenadines and Jamaica, of the Caricom partners. The document also went on to elaborate that the total land area of this country is 512,600 hectares, of which 141,000 hectares is arable land, only 26 per cent of the total land area, or less than four hectares per farmer. On the question of land resource, the document says, inter alia:

> "In this land-short economy (24.6 persons per kilometre squared and less than four hectares arable land per farmer) the demand on the arable portion is acute and is exacerbated by surface and coastal erosion and the alienation of good agricultural land for urban and industrial development. A detailed policy for

land administration, distribution and comprehensive land use planning will soon be implemented."

This was 1993.

On the question of our forest resource, Mr. President, this document said, and I quote:

"Forest destruction occurs as a result of squatting, shifting cultivation and uncontrolled fires."

4.25 p.m.

"This impacts directly and adversely on watershed management and the conservation of natural forests and biological diversity. The rational utilization of the Forest Resources for sustainable development is now being addressed by the Trinidad and Tobago National Forestry Action Programme (NFAP)."

Mr. President, our environmentalists and our concerned citizens have also been very vocal and alert with respect to the sustainability of the rational land use, given the impact of the environmental damage on our waters, our flora and fauna, by indiscriminate mining of our forest resources and our oil resources, the pollution of our waters by agricultural, domestic and industrial waste, by oil spills and pesticide residues.

We have problems of coastal erosion, and its causes and management need to be documented. We also have problems of harmful emissions from industrial products which poison the very air we breathe. These problems in such an environment, such a small country as ours, are identified in the document that I read formerly, as a land-short economy and have caused the gravity of continued untrammelled development at any level.

I would also like to draw a small reference to this untrammelled development, particularly of housing in this country. The hon. Independent Senators have recognized here today the importance of even a small plot of land to the common man. It is land which enfranchises us; it is land which makes us a part of this global community; it is land which makes us productive. The disenfranchisement of hundreds of thousands of people over a number of years has been nothing short of a scandal.

The history of this scandal is the history of our social development when, in the post-emancipation period, our relative under-population was the basis for an open-door immigration policy with respect to our Caribbean brothers and sisters, a policy which, however, led to unregulated, unstructured growth of housing

settlements in and around industrial and commercial centres. This phenomenon was further exacerbated by the manipulation and encouragement of this potential, social and ecological crisis situation in the interest, purely, of political expediency.

Over the last few years, under the administration of the UNC, we have begun to right the wrongs. We have begun to look at the problems in a very concrete way; to give back to a lot of people what their parents were denied.

The Planning and Development of Land Bill, 2001 establishes a very important National Physical Planning Commission which will work with the Environmental Management Authority to ensure the preservation of the environment as an integral part of the planning process. I think this is one of the most salient features of the Bill and it is extremely important for the citizens of this country.

The hon. Independent Senators are concerned with the focus on physical planning and have asked the question: Where is the economic and social planning? This Bill presented by the hon. Minister today is just one aspect. We are dealing with the physical planning now. There are other Ministers, there are other fora where social and economic planning are presented in their due time and place.

Mr. President, allow me to refer to a few clauses in this Bill which particularly underscore the essence of this Bill for me, in terms of the important institutions, the antecedents that they would have established in this Bill and the importance for the development of future legislation and future development in this country.

I would like to draw attention to paragraph two in the Explanatory Note where it is established that a National Physical Planning Commission would be established under this Bill.

> "The Commission would work with the Environmental Management Authority to ensure preservation of the environment as an integral part of the planning process."

This is key. Clause 5 is another important clause that establishes the National Physical Planning Commission, which is referred to in the Bill as "the Commission".

One of the objections raised here today was related to clause 15 which provides for the devolution of development control functions to local authorities. I see a bit of ambiguity in the contributions of the hon. Senators, because, on the

one hand, people object to planners staying in their air-conditioned offices and planning for different areas in Trinidad and Tobago, and, on the other hand, when clause 15 speaks of the devolution to the local authorities, there are also some objections based on the fact that these authorities may not be equipped to handle such planning.

I suggest that the logical step then is not to object to local authorities having responsibility for planning, but to give them the necessary resources which would make them an integral part of the whole process of planning. We are going forward, we are not going back.

Mr. President, clause 18 is another extremely important clause which provides guidelines for the preparation of the National Physical Development Plan. I dare say that although there have been some objections with respect to the wording of this clause, it is an extremely important concept, because here we have the concept of an overall national development plan which would, in turn, encompass everything that comes after. So we know where we are going. We have set the targets. We have an overall idea of where we want to go, and then anything else, any planning or development that comes after, would naturally be better accommodated and be made more sensible if integrated into something that is already well thought out.

Mr. President, clause 31(1) comes under the heading of development Orders and Regulations and provides:

> "The Minister shall, by order or by regulations, provide for grant of permission for the development of land…"

excluding routine or minor types of development. So the whole question, the whole *raison d'être*, is keeping a firm hand on development, of doing it in a holistic way and not an ad hoc piecemeal sort of approach to development that has been the cultural norm in this country.

Mr. President, clause 36 drew my attention because it provides for the integration of environmental considerations in planning determinations and for the entering into memoranda of understanding between the Commission and the Environmental Management Authority. This is extremely important because we know how much developers, private developers and individuals can lose track of the long-term, of the social aspects of development in their mad rush, perhaps, to acquire their own short-term needs.

Mr. President, clause 57 would provide for the issue of an environmental repair order on an owner or occupier of land to take such measures as are

specified in the order. This has to do with compliance of any particular development with environmental concerns as specified in the National Development Plan.

These are just some of the clauses that I feel are very essential to this Bill. I would dare say that the introduction of the Planning and Development of Land Bill, 2001 is yet another blow to the root of the laissez-faire approach to development. Another blow to this culture of taking the path of least resistance, of political expediency and of total disregard for the sacred trust which is our responsibility, which is safeguarding the environment, our cultural heritage for our progenitors. This was the old culture. The new culture is the body in the Environmental Act and in the Planning and Development of Land Bill, 2001.

Sometimes we get very comfortable with underdevelopment. Sometimes it is much easier to stay in a tapia environment rather than getting up and taking the responsibility of managing and sustaining a more superior environment. Therefore, you find that, very often, people have to be dragged, kicking and screaming, into a new era. This is unfortunate, but it is a fact of life. We get very complacent with the culture of underdevelopment, the lack of standards and the enforcement of these standards. The fact that the enforcement of standards has not been as it should be, is no excuse for saying that we should not have standards, we should not plan or it is a waste of time to plan. That is retrograde.

The international community has recognized and postulated that a new ethic is required, a new responsibility for caring for ourselves and the earth. This Bill together with the Environmental Management Act, 2001 will chart the path of this new ethic. These Bills have transformed the resolutions, the postulations of the 1970s and 1980s into the reality of the new millennium in Trinidad and Tobago under the UNC. [*Desk thumping*] We have now joined the most ecologically and environmentally conscious nations of the world in the front line of the ongoing struggle to maintain and improve life on this planet earth, as we know it.

I thank you, Mr. President.

Mr. President: I congratulate the Senator on her maiden contribution. [*Desk thumping*]

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, let me also take the opportunity to congratulate Sen. Dr. Jennifer Jones-Kernahan on such a great contribution, especially on a Bill of such significance.

Before we adjourn, I just want to inform you of what we are going to be doing next week Tuesday. We are going to be doing an amendment to the Finance Bill, and we hope to sit next week Tuesday until that is completed. That is being presented in the other place on Thursday, and hopefully we can get a copy of it on the Order Paper by Friday.

Mr. President, I beg to move that this Senate do now adjourn to Tuesday, May 29, at 1.30 p.m.

Mr. President: Before putting the question, I want to mention a small matter. Senators will have received an invitation from the Speaker and myself—[*Interruption*]—I see Senators are looking around; it is not about the response—inviting Senators to the third annual windball cricket match which was scheduled for May 27, 2001.

We have received replies from several of the Senators who would be very busily engaged in activities that will culminate one week thereafter—[*Laughter*]—as a result of which we are forced to postpone the match until June 10, 2001. The invitation still stands, but it is now for June 10, 2001. A new circular letter will be sent to you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.43 p.m.