

Leave of Absence

Tuesday, July 24, 2001

SENATE

Tuesday, July 24, 2001

The Senate met at 10.30 a.m.

PRAYERS

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

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have been informed that Sen. The Hon. Ganace Ramdial will be acting as President of the Republic of Trinidad and Tobago during the period July 23 to August 10, 2001. I have granted leave of absence to Sen. Danny Montano during the period July 21—31, 2001.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Temporary Senator

By His Excellency GANACE RAMDIAL Acting
President and Commander-in-Chief of the Republic
of Trinidad and Tobago.

/s/ Ganace Ramdial
Acting President.

TO: MR. VINCENT CABRERA

WHEREAS the President of the Senate has temporarily vacated his Office of Senator to act as President of the Republic of Trinidad and Tobago:

AND WHEREAS the Vice-President of the Senate is acting President of the Senate:

NOW, THEREFORE, I, GANACE RAMDIAL, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 40(2) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate with immediate effect and continuing during the period that Senator Ganace Ramdial has temporarily vacated his Office as Senator.

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 23rd day of July, 2001.”

Oath of Allegiance

Tuesday, July 24, 2001

OATH OF ALLEGIANCE

Sen. Vincent Cabrera took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended December 31, 1994. [*The Minister of Finance (Sen. The Hon. Gerald Yetming)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended December 31, 1995. [*Hon. G. Yetming*]

ORAL ANSWERS TO QUESTIONS

**1997 Survey of Living Conditions
(Analysis of)**

8. **Sen. Dr. Eastlyn McKenzie** asked the Minister of Integrated Planning and Development:
 - (a) Could the Minister tell this honourable Senate when the report on the analysis of the 1997 Survey of Living Conditions will be published?
 - (b) Could the hon. Minister further state when copies of the same report would be made available to Senators?

The Minister of Integrated Planning and Development (Hon. John Humphrey): Mr. Vice-President, I have been authorized by Cabinet to give the following response to the question raised by Sen. Dr. Eastlyn McKenzie.

The 1997 Survey of Living Conditions is the second of such surveys undertaken in the country, the first being in 1992. Based on the 1992 survey, the World Bank and the then Ministry of Social Development, through the engagement of a consultant, produced reports in 1995. The Government recognizes the importance of surveys of living conditions for measuring the distribution of welfare and levels of poverty among households, and for the generation of data to assist with the assessment of the impact of existing programmes and the design of new intervention programmes to protect the poor and lower income groups in the society.

The Government, therefore, intends to institutionalize the undertaking of surveys of living conditions on a more regular basis and to build the capacity in the Ministry for analyzing the data to avoid the need for engaging consultants to do so in the future. The detailed schedule of activities leading to the production of a report includes: checking of the data for consistency; preparation of tables; analysis of the data; and writing of the report. It is estimated that the report would be completed and laid in Parliament, subsequent to Cabinet's approval, by May, 2002.

The National Physical Development Plan being undertaken at present is guided by living conditions data and is intended to achieve development standards for improving the living conditions of all citizens.

The following question stood on the Order Paper in the name of Sen. Dr. Eastlyn McKenzie:

**Maximum Security Prison
(Commissioning of)**

9. Could the hon. Minister of National Security tell this honourable Senate when the new maximum security prison will be fully commissioned, and when prisoners from the Port of Spain prison are expected to be transferred to the new maximum security prison at Golden Grove?

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, I beg to move that the answer to question No. 9 be deferred for a period of two weeks.

Question, by leave, deferred.

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, today is Private Members' Day, however, after discussion with the leaders of the Opposition Senators and the Independent Senators, it was agreed that "Government Business" be dealt with today instead of "Private Business". I therefore seek leave of the Senate to deal with "Bills Second Reading" at this stage of the proceedings.

Agreed to.

10.40 a.m.

PLANNING AND DEVELOPMENT OF LAND BILL

[Fifth Day]

Order read for resuming adjourned debate on question [May 22, 2001]:

That the Bill be now read a second time.

Question again proposed.

Sen. Dr. Vincent Lasse: Mr. Vice-President, I rise to support the early passage of the Planning and Development of Land Bill, 2001. The delay in this Bill is affording the opportunity to certain individuals to create mischief and supply misinformation and also to create hysteria. I want to give two concrete examples of this. The first example relates to a prominent leader in our country and the second example relates to the intervention of a Member on the Opposition Bench.

I read the *Trinidad Guardian* dated Saturday, July 7, 2001, wherein there was an article about a prominent individual and leader in our society, so to speak, whose name I would not call because the individual is not here to defend himself or herself. From the silly utterances, I am certain that that individual did not have the opportunity nor the time to study the Bill before this Senate. The Bill was described by that individual, "as a wicked and vicious piece of legislation in the House that affects every one of us in the country because any government could come and take your land and you have no recourse." This is the mischief I am speaking about. It is totally disgusting and misleading. That is not all. The individual went on to invite or incite public officers and citizens to flood the Parliament. For what purpose may I ask? Here again, I am speaking of the hysteria that certain people are trying to create.

A flooded gallery provided the opportunity for example No. 2. I read in the *Trinidad Guardian* dated Thursday, July 12, 2001, the article which indicated that on Tuesday July 10, 2001, Sen. Joan Yuille-Williams was seen playing to a full gallery. They call that "gallerying". Well, it was "gallery" for so. The article mentioned, "pointing to the public gallery of the Chamber which was filled to capacity with mainly environmentalists wearing red ribbons protesting the Bill, she the Senator said, 'this Bill have a lot of people uncomfortable.'" Sound and fury signifying nothing. This is what I call mischief.

Sen. Daly: Mr. Vice-President, as a civil libertarian, I have been listening to this very carefully. Is it in order to describe the contribution of someone in the Senate as mischief? I suggest that it is an infringement of Standing Order 35(5), that imputes improper motives to any Member of either House. I think we proceed on the basis that unless the Chair intervenes, a contribution is acceptable and not mischievous. I suggest that it is out of order to suggest that the contribution of one of us is mischievous.

Mr. Vice-President: May I advise the hon. Senator to temper his language in the context of his contribution.

Sen. Dr. V. Lasse: Mr. Vice-President, I would so do and I would replace “mischievous” with “misleading”.

Sen. Daly: Mr. Vice-President, on a point of order. As far as I know it is an offence against the Standing Orders to mislead the Senate. That is equally an infringement of Standing Order 35(5). I rise not to protect any particular Senator, but to protect the right of all of us to free speech in the Parliament. I do not think that it is in order to accuse anyone of misleading the Senate.

Mr. Vice-President: Hon. Senator, I suggest that if you are proposing or suggesting that the Senator in question misled the Senate, you can support the statement or that position so that at least, it would not be left in a vacuum.

Sen. King: Withdraw.

Mr. Vice-President: Listen, could we have peace in the Chamber? I am in charge of this operation. [*Desk thumping*] I am the Presiding Officer. I am determining how we conduct the affairs of this Parliament. They must be conducted in an atmosphere of dignity and civility. I am simply informing the hon. Senator, that if he is making, alleging or attributing statements to any Senator, he should kindly provide the appropriate evidence, otherwise, he would have to withdraw those remarks.

Sen. Dr. V. Lasse: Mr. Vice-President, thank you.

I can recall stating that when the Senator was waving and pointing to the gallery while mentioning the Bill, at no time did the Senator in question refer to any clause of the Bill to substantiate why. I will move away from that. At that point in time the gallery was filled with persons who were members of the Chaguaramas Landowners Association, who were being made to believe that this Bill is about taking away their land. This Government has been in office for approximately five years. I wonder what had been done by previous governments that had been in office for more than 20 or 30 years. The question of the land in Chaguaramas did not take place within the last five years. That is the point I want to make.

As I see it, the man in the street is being duped into believing that this Bill is intended to take away his land. On the contrary, the Bill is about reforming the laws of the Town and Country Planning Division of Trinidad and Tobago. By so doing, landowners and prospective landowners would have more protection than they now have under the present law. That was not all. In the gallery, the Senator noticed a group known as Fishermen and Friends of the Sea. The Senator went into trying to link—

Mr. Vice-President: Let us see if you could not make reference to the gallery. Let us deal with the Bill in the context of if there is a report in the newspaper and you would like to refer to it. Sen. Dr. Lasse, you can do so. The strangers in the gallery as they are described, do not take part in these proceedings. I do not think you should make reference to the gallery.

Sen. Dr. V. Lasse: Thank you.

The Senator went on to indicate 75,000 square kilometres of land under the sea and tried linking the Bill with it. Questions of the law of the sea, questions of our coastline, our economic zones, our continental shelf, bilateral agreements with neighbouring states are all covered under a separate legal regime, and not the Bill on the planning and development of land. If it is that persons need to be informed more about the law of the sea, we have here as a Senator, Christopher Roy Thomas who, I am sure, has headed the delegation for law of the sea for more than 12 years. I served as a member of that delegation. He can educate us on the law of the sea.

In my contribution to this debate, I would be dealing specifically with the question of the environment. It would be my responsibility to clarify whatever misconceptions and misinformation may have been created. Having had the responsibility for the environment for a period of time, especially during the life of the joint select committee, I wish to put to rest whatever misconceptions there may have been.

First of all, I would deal with what we consider the perceived conflict of jurisdiction and/or role of the Environmental Management Authority and the Physical Planning Commission. There is absolutely no conflict of jurisdiction. I will deal with that later in my contribution.

It bothers me a bit when certain Senators come to this Senate and claim that they are so concerned about the environment. It is a fact that under the previous administration there was no ministry of the environment. It was only in 1998, when I was given the responsibility for the environment, I was mandated to put in place the modalities for creating a ministry of the environment. The Ministry of the Environment was created on October 22, 1999. I am making this point to indicate that this Government is very concerned about the environment. That is why this Bill has so much about the environment. I would go on to explain.

Let me at this stage briefly speak about the genesis of this Bill because it has been around for approximately 15 years. I will give the genesis of the Bill in a chronological order. It is as follows:

- (1) In 1988, consideration was given to planning and development under the administration of the National Alliance for Reconstruction (NAR).
- (2) In 1995, under the administration of the People's National Movement (PNM), the United Nations Development Programme (UNDP) funded a study which, among other things, called for the speeding up of the approval process and also for a comprehensive physical planning regime.
- (3) In 2000, the Bill lapsed because the joint select committee at that time lacked the political will to complete its work. I was a member of that committee and I can vouch for that.
- (4) In 2001, the Bill is before us.

I am confident that with the necessary political will, compromise and devotion to our duty here as legislators, we would be able to complete our work. There is absolutely no need to delay and send this Bill back to a joint select committee. In my humble view, it would be a colossal waste of time. The tactic of delayed action reminds me of the United Nations. Whenever you wish to kill a subject or an idea, you send it to a committee. I hope that we should have no further delay because sending back this Bill to a joint select committee is not an option.

10.55 a.m.

Sen. Prof. Kenny: It was earlier suggested that the joint select committee lacked the political will, and now the hon. Senator is suggesting that a joint select committee is not the way to go. My point is: The select committees of Parliament, either of the Senate or of both Houses, are committees managed by a government chairman who calls the meetings. The earlier suggestion that the Joint Select Committee lacked the will was a reflection on the chairman and the Government, which is the majority. In other words, what the hon. Senator is saying is that the Government lacked the political will to hear the thing properly in a joint select committee.

Sen. Dr. V. Lasse: Mr. Vice-President, I think I can clarify myself. The Senator could speak for himself. I was a member of that committee, and it was my view that it was the entire committee, not just the Government side. The committee was comprised of various persons and I was there.

I would like to give way but I do not want Senators to be eating into my time. I spoke about the tactic of delayed action. I was very pleased when Sen. Prof. Deosaran made his intervention on the Bill. In his contribution he made mention that because of the delay in getting this legislation in place, squatting had come to

a situation—and there were ill effects of squatting when he spoke about the criminal elements and also the health hazards deriving therefrom. As it is, there were some 50,000 squatting families due to non-regulation, vis-a-vis, land, and so forth.

Mr. Vice-President, I now turn to the environment in proper, and the areas of perceived conflict. One area of perceived conflict seems to be the jurisdiction and/or role and function of the Environmental Management Authority (EMA) and the National Physical Planning Commission. I said this before and I will reiterate that there should be no conflict between these two government entities because they are both designed to assist and to work together for the sustainable development of Trinidad and Tobago. I would prove that point as it relates to the Bill and also as it relates to the Environmental Management Act of 1995.

Mr. Vice-President, with your permission, I will read the preamble to the Environmental Management Act, No. 3 of 1995.

“AN ACT to provide for management of the environment within Trinidad and Tobago through the establishment and operation of an Environmental Management Authority, an Environmental Trust Fund and an Environmental Commission, to define the powers and duties thereof, and for related matters.

WHEREAS, the Government of the Republic of Trinidad and Tobago (hereinafter called ‘the Government’) is committed to developing a national strategy for sustainable development, being the balance of economic growth with environmentally sound practices, in order to enhance the quality of life and meet the needs of present and future generations:

And Whereas, management and conservation of the environment and the impact of environmental conditions on human health constitute a shared responsibility and benefit for everyone in the society requiring co-operation and co-ordination of public and private sector activities:

And Whereas, while several public authorities and other institutions have been performing various environmental functions and services under existing laws, there is need for a co-ordinated approach to ensure the application of those laws is consistent with the Government’s commitment:”

I would also quote from the Explanatory Note to strengthen the point I am trying to make.

“The purpose of this Bill is to reform the Town and Country Planning Laws of Trinidad and Tobago by establishing a system of planning and development

approvals which is designed to secure predictability, simplicity, promptness and transparency in the treatment of development applications.

The Bill therefore establishes...”

And this is important.

“...a National Physical Planning Commission and endows it with relevant powers to achieve the overall objectives of the Act for which this is the Bill. The Commission would work with the Environmental Management Authority to ensure preservation of the environment as an integral part of the planning process.”

Sen. Prof. Ramchand: Mr. Vice-President, since the hon. Senator is in such a scholarly and conciliating vein, can he tell the Senate what is the status of the memorandum of understanding signed on July 06, 2000 between the Environmental Management Authority and the interim National Physical Planning Commission, and whether agreement reached there is to be worked into the amendments to the Bill being proposed by the Government?

Sen. Dr. V. Lasse: Mr. President, I think the hon. Senator knows full well that there is a minister who is responsible for and is the person who presented the Bill. I believe a question like that would be much more appropriate in the winding-up.

It is this Government that recognizes that the environment is an integral part of the planning process. It is this Government that would be paying particular attention to sustainable development policies, and this piece of legislation is a first step in this direction. That is why the National Physical Planning Commission and the Environmental Management Authority will be working together to ensure the sustainable development of Trinidad and Tobago. That is how we on this side see it.

Mr. Vice-President, to highlight the Government’s concerns about the environment and to demonstrate that it is on the right path, I will refer to the publication entitled *Environmental Issues in the 1990s*. This, I consider the bible of environmental issues in the 1990s and beyond. This Government is not by any means a government by vaps. The environment is pivotal and I would now refer to the policies of environment in the 1990s.

The publication at page 29 states:

“...it is possible to define a number of common themes that should characterize sustainable development policies. Building a sustainable future will be a long and difficult journey, but the most difficult of journeys starts

with a first step, and is most easily undertaken if broken down into a series of shorter, less daunting stages.

Concerns over the environment and development are now at the centre of the political debate. Throughout the world politicians are responding to the fears and concerns of their constituents that the world cannot continue down the same development road.”

11.10 a.m.

Recognizing this, Government has made the environment and environmental issues pivotal to the Bill now before this honourable Senate. It has been clearly stated—and I will repeat for emphasis—that the National Physical Planning Commission will work with the Environmental Management Authority to ensure preservation of the environment as an integral part of the planning process.

In Part II of the Bill, which deals with interpretation, we address the questions of environmental clearance certificates, the Environmental Commission, which is now in place and has the powers of a high court; a comprehensive definition of the environment has been given and also the restoration of the environment has been clearly defined. Also of paramount importance are the objects and purposes of the Bill which is now before us.

In order to clarify the parts dealing with the environment, I must refer to clause 3(1) which states that:

“The objects and purposes of this Act are:

- (a) to provide means whereby plans and related measures may be prepared and adopted;”

Very important is (d), which says:

- “(d) to maintain and improve the quality of the physical environment, to improve the aesthetic quality of the built environment and to protect, conserve and promote the diverse cultural heritage of Trinidad and Tobago as it finds expression in both the natural and built environments.”

Mr. Vice-President, it is against this background that I shall now try to deal with the concerns of those Senators who made valuable contributions in this debate concerning the environment. I speak here of Sen. Kangaloo, who made valid reference to clause 35(1)(f); also Sen. Daly, who also made reference to clause 35(1)(f). Sen. Prof. Ramchand and Sen. Rev. Teelucksingh made general

comments and, of course, Sen. Prof. Deosaran made a valuable contribution as to why we should not delay this Bill.

The major contention seems to be the perceived conflict of jurisdiction between the National Physical Planning Commission and the Environmental Management Authority. Senators may recall I spoke of this before. There could really be no conflict whatsoever. The National Physical Planning Commission and the Environmental Commission are two government entities. The Bill itself establishes the National Physical Planning Commission and it is intended to work in unison with the Environmental Commission. Now that we have in place an Environmental Commission, which has the powers of a high court, I believe there should be no conflict here.

As I said, I see no conflict of jurisdiction. There may be some confusion as to the language—whether it is precise enough or whether there could be a question of interpretation. We have here in this honourable Senate—and we can use the service of—Sen. Daly, who, in my view, is a draftsman par excellence. We can also use the good services of the Senator on the Opposition Bench, Sen. Glenda Morean, who, I believe, is a legal mind and can assist us in this.

Now that I have addressed the questions of the perceived conflict of jurisdiction between the National Physical Planning Commission and the Environmental Management Authority, I will deal with clause 35(1)(f). You see, Mr. Vice-President, this clause purports to require the National Physical Planning Commission, in providing permission for the development of land, to consider whether a certificate of environmental clearance has been granted or refused. I believe that Senators want the language here to be more eloquent. It also seems to me that Senators believe that the National Physical Planning Commission can override the decision of the Environmental Management Authority. This seems to be the confusion.

Mr. Vice-President, having had the opportunity to be responsible for the EMA during the deliberations at the committee stage, I am in a position to state the views of the EMA, which are reflected in the Act. I want to put it in a very clear way.

It is the understanding of the EMA that if a certificate of environmental clearance has been refused, unless reversed by the Environmental Commission, an application to develop land cannot proceed where it concerns a designated activity. I think Senators want this to be very clear. If there is any ambiguity in

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35(1), I submit that we address them at the committee stage, using all legal minds and their drafting techniques to arrive at language pleasing to all.

As I begin to sum up in support of this Bill, I must reiterate that this piece of legislation is long overdue. Since 1988 we have been tinkering with it—in the year 1988, the NAR administration; in 1995, the PNM administration. Had this piece of legislation been put in place many years ago, we would not have been in a situation where we now have some 50,000 squatting families, 80 per cent illegal structures and, of course, a shortfall in housing amounting to approximately 114,000 housing units.

So, when this Bill becomes an Act, it will cause the following:

- (1) The speeding up of the approval process.
- (2) The town and country planning laws of Trinidad and Tobago will be reformed.
- (4) The National Physical Planning Commission and the EMA will be working together for the sustainable development of Trinidad and Tobago.
- (5) Due to the one-stop-shop approach, there will be an end to illegal structures in Trinidad and Tobago.

Mr. Vice-President, we on this side do hope that after this exhaustive debate, Senators will exercise their political will, maturity, statesmanship, compromise and good sense in supporting this Bill.

I thank you.

Sen. Mary King: Mr. Vice-President, I thank the hon. Senator for his background to this Bill. I am surprised that after 15 years it has come back in the state that it is in.

I, too, like my colleagues, have received many communications on this Bill—by email, by phone, by fax, even visits to my home—and all of these communications have one thing in common, fear that this Bill will be passed in its present form to the detriment of civil society. The full gallery today is a reflection of this very fear.

I have read the Bill many, many times and, although I have also put forward some suggested amendments, I do understand and appreciate its main thrust. Its main thrust is to streamline the current operations relating to land development, and no one can fault a government for this.

11.25 a.m.

The fear of those who approached me was the fear as if we were dealing with a rogue government; the fear of placing final decision-making in the hands of a minister or senior officials. We saw the same fear when we debated the Telecommunications Bill.

The paradox here is that this Government is composed of people—of politicians whose tasks are normally the preservation and the interest of our civil society. Our civil society today, however, is now afraid to place this final decision-making on certain issues into the hands of their elected representatives. The civil society is the same people who are now calling for more power to be given to the EMA and to the Telecommunications Authority. Our people, therefore, are beginning to trust less and less national governance, as it seems to be evolving today.

Some are calling for independent authorities with the hope that the independence generated by these boards, and by the method of appointment to these authorities, would ensure fairness and openness in the operations of these authorities. They expected, for example, when we debated the Telecommunications Bill that the Authority would be appointed by the President; and that really meant that the President would appoint. What this means, however, is that the Government picks the members and the President has absolutely no choice but to appoint.

There is fear of these Cabinet appointees to these authorities and to the boards, fear that the boards are not there to serve our people but to serve themselves and their friends. The organized chaos as described in the North West Regional Health Authority Auditor General's report is scandalous to say the least. The board of that Authority, from the Chairman down, is guilty of gross negligence and not only under the Companies Act. It has to take full responsibility—

Mr. Vice-President: First of all, Sen. King, that matter was referred to the Public Accounts Committee on June 29, 2001. The report would come here and we would have ample time to debate it.

I think, for instance, it is a bit unfair, when people are not here to defend themselves, for us to impute what was just said. So I would like you to be very cautious in your language as it relates to this kind of blanket assault on the integrity of people. As I understand it, from where I stand, everyone is innocent until proven guilty. Please continue but, at least, have some respect for those who are not here to defend themselves.

Sen. M. King: Thank you, Mr. Vice-President, my sentence was incomplete. Thank you, that it has now gone to the Public Accounts Committee (PAC). The public is not aware of that. What I was saying was that they must take full responsibility for the mismanagement and alleged misappropriation of funds. I am very aware that it is before several committees.

The people are still fearful of the politicians and if we consider the apparent confrontation between the Government and the main pillars of this society, that operate as checks and balances on the excesses of governance. Let us look at the conflict between the media and the Government which has been an occurrence that has been off and on—the Green Paper being the highlight of that conflict. Yet as declared by Transparency International the media is one of a set of “bulwarks” in the fight against corruption and opacity.

Look at the impasse between the Government and the Judiciary, where the judicial process is very expensive for us. It is the final recourse we all have against any perceived heavy hand of executive governance, hence the fear of curtailment of the independence of the Judiciary is primordial. This Bill, Sir—in relation to the Judiciary—seeks to put the Minister outside the reach of the Judiciary and a very apprehensive public, this action sets all the alarm bells ringing.

It is fair to say that there has been grave opposition to the methodology used in the award of contracts at the airport; to say nothing of the costs to build it. Again, at the risk of censure, Sir, even the Attorney General has raised his voice with this item. He has raised his voice against it. The Trinidad and Tobago Transparency Institute was in the forefront of an attempt to get a commission of enquiry into the award of some of these contracts, and to no avail. The idea was not to start a witch-hunt but to institute transparency in the business of Government—

Sen. Als: Mr. Vice-President, with your permission, I wish to raise section 35(1) in respect of the question of the matter under discussion, in respect of the relevancy of the Senator’s contribution to the matter here this morning.

Mr. Vice-President: Sen. King, I would like to advise that if you can keep to the substance of what we are dealing with—I see you went to the airport, to the North West Regional Health Authority; I have given you a lot of flexibility but can we probably focus on the Bill? This debate is not about the airport or the NWRHA but I have allowed some flexibility. So I would like you to come back to the Bill and its relevance.

Sen. M. King: Thank you, Mr. Vice-President, this debate on this Bill—

Sen. Dr. Gopeesingh: Mr. Vice-President—

Mr. Vice-President: No, do you have a point of order?

Sen. King takes her seat.

Sen. Dr. Gopeesingh: Mr. Vice-President, under Standing Order 35(2):

“Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto.”

May I raise this in the context of the Senator’s statement on the NWRHA? I would like her statement on that to be expunged from the *Hansard* record. *[Interruption]* Well, you know what you said.

Mr. Vice-President: Order, order! Silence!

Sen. Dr. Gopeesingh: I would just ask that her statements regarding the NWRHA and the Chairman and the board of the NWRHA be expelled from the *Hansard*. The Senator knew what she said; it is documented in the *Hansard*, and I ask for that to be done. If you want a copy of the *Hansard*—

Mr. Vice-President: I ruled on that matter earlier. I said, for instance, in terms of the Public Accounts Committee, that matter was referred to that committee and in due course it will come before this honourable Senate and Senators would have an opportunity to debate the matter.

I also indicated that it is a bit unfair to be making allegations against persons who cannot defend themselves. I ruled accordingly. My ruling is final.

Sen. King, I do not want you to challenge the Chair. When I make a ruling on a particular matter, I do not want any Senator—if you want to query my authority, come with a substantive motion. Whilst I am here and I make a ruling, I do not want Senators to challenge that ruling. I made it very clear that you are going off course on the matter. If you can stick to the Bill, I think we can have a very reasonable debate as we proceed today.

Sen. M. King: Thank you, Mr. Vice-President. I think I made it very clear that my sentence talked about alleged misappropriation of funds, so I thought that point had been clarified. We are pleased that the PAC has been—*[Interruption]*

Mr. Vice-President: Order, please!

Sen. M. King: Mr. Vice-President, all my statements are related to particular clauses within the Bill. So I would like you to just be a little patient so that I will eventually get to the point. I am probably doing—[*Interruption*]

Mr. Vice-President: Hon. Senators, let us have some order and not have crosstalk, please, otherwise we would have a breakdown in our civility and dignity in how we conduct our affairs. Sen. King is on her feet, let us hear her in silence, please.

Sen. M. King: Thank you for your protection, Mr. Vice-President. [*Laughter*] As I was saying, Transparency International was not interested in a witch-hunt but to bring about openness, transparency, discussion and public information. If we look at when Transparency International rated this country at No. 31 in its CPI Index; with an index of 5.3, there was official condemnation of Transparency International but today, just a few weeks later, many people out there think that we may have been placed a little too high, that we should have been placed a little lower on the list.

Sen. Als: Mr. Vice-President, on a point of order. Again, I come to section 35(1) of the Standing Orders with respect to the relevance of the Senator's contribution to the Bill that is before us.

Mr. Vice-President: Sen. King, I think that you had indicated to me a short while ago that you were trying to connect the dots. So I am trying to allow you to connect but I hope you do not stretch it too far.

Sen. M. King: Thank you, again, Mr. Vice-President, my dots will always lead to a clause in the Bill. The perception in the country today is that corruption is rampant. Even our Prime Minister is talking about the rogues who are taking over the State's boardrooms. Yet some blame has to be placed on the shoulders of those persons who choose these very State board members. Surely this whole country is not corrupt, Mr. Vice-President.

The greatest fear of all—even within the governing party—is the impact of funding from the private sector on the objectives of Government and its party. We are leading to a clause, Mr. Vice-President. During the few weeks in the run-up to the UNC's internal elections we had no choice but to listen on our televisions and radios—

Mr. Vice-President: Sen. King, I think I would like to appeal to you. If you could refer to the relevant sections of the Bill where there is a connection between what you are talking about, the allegations that you are making and the link—I am

not seeing them. You have been speaking for a long while now and I am not seeing the dots being connected. I do not want to rule you out of order or irrelevant but I would like you to stick to the Bill. You have not referred to one particular clause as yet in your contribution. Could you kindly come back to the Bill, Madam?

Sen. M. King: Thank you, Mr. Vice-President, I am relating to the fact that the concern is that this Bill in its present form will allow the Government to provide its political funders with the largesse of land at the expense of the small man and woman, and I am relating to clauses within the Bill. [*Desk thumping*] There is concern, Mr. Vice-President! There is fear, Mr. Vice-President! I believe other people share that fear, not just myself.

This Bill allows the confiscation of property by the State on behalf of the private sector. It is felt that this ought to be a negotiation between two parties and that the Government has no place in confiscating land for the private sector. [*Desk thumping*] If this Bill had been enacted during the Toco discussion, today we could be witnessing the desecration of one of nature's purest beauty spots. [*Desk thumping*] This is our fear, Mr. Vice-President—if the Bill is passed in its present form, Toco may yet be destroyed, and Tobago is next on the list.

These fears are very real. This is not only a problem in Trinidad and Tobago. We have seen the classic case of the Clinton administration, the warfare with the European Union over Chiquita Bananas, where both sides of the Government, the Senate and the other side of the House were bought by Lindner and his Chiquita Bananas organization. So it is not a Trinidad problem it is a world problem and we should be aware of it. In those days of Lindner and Clinton, the world power was up for sale to the highest bidder. Transparency International is also on record calling for local legislation to control the funding of political parties, as is the norm in any country, so our State would not be captured by political funders.

11.40 a.m.

We have spoken at length about the perils of state capture by the private sector in which the objective of the State actually becomes the objective of the private sector. The fear is that this Bill, Mr. Vice-President, is an instrument, the result of this state capture. Given the recent fiasco in Toco and that of the confrontation on the national stadium foreshore and the new provisions in the Bill before us, it is easy to understand the civil society's fear of big government, a government that appears to be funded, if not bought out, by certain sections of the private sector. One is very, very concerned about the relationship, or is it a coincidence, between

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the names of the receivers of contracts and other bounty, of those who apparently funded political parties—those who appear on the party platforms.

For example, it is very difficult to prove the recent award of the nectar of Caroni, the wood of Tanteak, the proposed lease of the people's oil wells—
[*Interruption*]

Sen. Gillette: Mr. Vice-President, through you on a point of order, Standing Order 35; I know you have ruled on it before but the dear Senator seems to be going on, because we have brought the NWRHA, we have brought the airport, we have brought awards of tender and those topics do not deal with the issues of the Bill. We seem to be taking a very long time before we get to the issues of the Bill, so I would ask you please to rule again. Thank you.

Mr. Vice-President: Sen. King, try to assist us all by trying to be a little more relevant to what we are discussing. I understand what you are attempting to advance. I am very patient here and I am trying to get the dots connected as you speak, so if you could be a little more relevant and pertinent, I would appreciate it very much.

Sen. M. King: Thank you again, Mr. Vice-President. Thank you for my reminder. I am afraid sometimes one has to go into detail in order for all to understand, but we are still working and talking within the context of this Bill and when I get to my amendments you will see all the links. We have a list of proposed amendments here.

What I am saying is that without information, Sir, and transparency of processes and procedures, the people are afraid. [*Desk thumping*] I am saying so. Other countries are putting their processes and procedures for divestment and for bids of contracts on the Internet and in the media, and I think this is one of the ways that this Government could begin to open up and show us that transparency is their ultimate aim, but this Bill has not done that for us. The Freedom of Information Act will allow interested persons to obtain information, assuming of course that the line minister does not declare the document to be exempt.

I would like to suggest that in future we take a page out of the book of Mexico where all its transactions, all its procurement, are put up for public scrutiny on the Internet without having to await queries under a Freedom of Information Act. [*Desk thumping*] Also the result of the Mexicans' reaction to the CPI index was totally different to what we got in Trinidad and Tobago. I would like to read the Mexican minister's response. If I may, Mr. Vice-President, in countries where there is a high—[*Interruption*]

Sen. Als: Again I want to refer to Standing Order 35. We are asking the Senator repeatedly—we have offered in this place protection to the Senator, which she should have, and the relevance to the Bill is what we are trying to seek. Transparency International is being repeated here, I have no problem with that, but the fact is—*[Interruption]*

Mr. Vice-President: All right, Sen. Als, I think I got you.

Sen. Als: Mexico now?

Mr. Vice-President: I know you told me that you have amendments and they are all related. Are we going to deal with those amendments at the committee stage, or are you going to share these amendments with the Senate?

Sen. M. King: Yes, Mr. Vice-President, we are going to share the amendments when I am finished my contribution, and I believe that we are allowed a certain amount of time to speak and I know that we listen to many Senators in their contributions. We listened to Sen. Dr. Lasse who very graciously gave us the background to the Bill. We have also all read that, but it was also interesting—and I am sure that every Senator has his or her own point of view, Mr. Vice-President, and I would like to be given the opportunity to declare mine.

Mr. Vice-President: Every Senator has a point of view, I have no problem with that, but I am concerned about relevance—the relevance. The Standing Order is very clear. You have to be relevant, Sen. King. I am very patient and I am trying to accommodate your viewpoints as much as possible.

Sen. M. King: Mr. Vice-President, there is a link between perceived lack of transparency, perceived corruption, in this Bill. There is a great link that there is not total openness. There is a great link in that there are some of these clauses which are very anti-democratic. Mr. Mugabe might get away with it, but we cannot do it in Trinidad and Tobago and we are trying to bring to the attention of the Minister and the Government that some of these clauses are unacceptable. We are looking at clause 4(3), clauses 35, 36, 48, 75 and 101. I will go on, but let me lead up to my clauses.

Mr. Vice-President: No, that is the problem. Sen. King, could you have your seat? You see, that is the problem, that you are giving me a lot of pressure as the presiding officer because I am trying to accommodate your contributions without interrupting you. All I am asking you is if you can relate the relevant clauses to what you are talking about. You keep telling me that they are to come, they are to

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come. If you can refer to the clauses, relate them to your case, your points, I think everybody would be able to follow what you are saying. I do not want to interrupt you. That is not my role. My role is to accommodate you.

Sen. M. King: Thank you, Mr. Vice-President. If you insist that I do not speak about the lack of transparency and corruption—[*Interruption*]

Mr. Vice-President: No, no, no, no, wait, wait, wait, wait, wait, wait, wait, wait. I am not saying that any Senator should not speak on any subject. All I am saying is, let us have the relevance of it. So I do not want anybody to accuse the presiding officer of trying to stymie people's rights as Senators to speak. All I am saying, Sen. King, is that there is relevance required under Standing Order 35(1) and I am just appealing to you—if you are talking about Transparency International, that is fine—link it to the relevant clause or clauses and I will be happy. That is all.

Sen. M. King: Mr. Vice-President, you are really taking away my time [*Interruption*] by asking me to forego my contribution to discuss the amendments, but if that is what you want, I would do so.

I will now look at some of our proposed amendments. Before the days of the IMF first-generation reforms, government provided certain public goods and services such as electricity, communications, water, et cetera. The move today in Trinidad and Tobago is to privatize some of these utilities and, as a result, private firms will be and are providing public goods and public services that used to be done by the government. The private sector is fully aware, of course, that these utilities are cash cows.

In the case where we have privatized our utilities, it is legitimate to expect the government to acquire lands, for example, in the telecom industry for right of way or cell sites for the planned liberalized telecommunications sector, and pass them on to the private sector. The operating maxim, however, is still to acquire lands for public purposes even though the operating agent is the private sector, Mr. Vice-President.

I cannot understand the proposed clause in the Bill, 23(5), which blandly talks about acquiring land “as if the acquisition is for a public purpose”. Clearly this may be a typographical error and should be read “as acquiring land for public purpose”. [*Desk thumping*] This would be my first amendment. Also, a government cannot be given carte blanche, as a clause suggests in this Bill, to commandeer the property of citizens and further to remove the constitutional right of recourse to the courts to review the government actions, as is implied in clause

4(3). Even if this power of the government were permissible, surely the Bill now requires a two-thirds majority for its passage. [*Desk thumping*]

Clause 35(1)(a) talks about:

“...the Commission or any planning authority shall take into account—

(a) the National Physical Development Plan;”

Et cetera, et cetera, et cetera. That should be the Commission, Mr. Vice-President, will certainly uphold the laws and the conditions pertaining to all of those items there, Mr. Vice-President. In clause 36(5)(b) we are saying the EMA has total responsibility, Mr. Vice-President. That clause is redundant. It should be totally removed from the Bill. Also with 36(7), Mr. Vice-President:

“The Environmental Management Authority and the Commission may enter into...”

We are saying you cannot overstep the conditions of the EMA and that clause should also be deleted. [*Desk thumping*]

We have the powers reserved to the Minister, the usual favourite clause where we are concerned about the powers of officials—48(1):

“...the Minister may give directions requiring that the application be referred to him instead of being dealt with by the Commission...”

We are saying, “to him for discussion with the stakeholders and all the authorities involved in the item to be discussed”, Mr. Vice-President. It says also the decision of the Minister on any application is final. I think that is a bit much, Mr. Minister. I think we should review that at committee stage as well, Mr. Minister.

We have clause 75(5)(b) also encroaching upon the EMA’s responsibility and the certificate of environmental clearance (CEC); we say that clause should be deleted, Mr. Vice-President. Clause 101, line one:

“The Minister may make regulations...”

We are again saying:

“The Minister, after open discussion with all the major stakeholders, the public and the various commissions, shall...”

Mr. Vice-President, to go back to my summary. I would like to reiterate that there are clauses in this Bill that appear to be very undemocratic, something

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which we are working towards: improving our democracies in Trinidad and Tobago. There is a fear among the general public of some of the clauses in this Bill, and it is a real fear. When Transparency discusses openness, we are talking about openness—lots of discussion before a Bill comes before the Senate. Let Bills such as this go to joint select committees, which was not done in this case, and which we are still not happy with. [*Desk thumping*]

Some of our proposals also in the Freedom of Information Act, which we put forward were accepted, others were not accepted and some, particularly relating to the powers of the Minister, have not been accepted. When that Bill comes back we would like to discuss that fully and I hope I will then be given my full time to discuss the Freedom of Information Act. Also, the Attorney General is returning to the Parliament with the amendment to the anticorruption bill, 1987. When that bill comes to the Parliament, Mr. Vice-President, I am sure that I will be able to speak on behalf of those who are interested in transparency and openness and particularly in corruption, so I presume I will be given my full time on that debate.

Mr. Vice-President, we are interested in strengthening the pillars of the society and the bills coming to Parliament, and the Judiciary and the Legislature are all pillars of our society which we are very concerned about strengthening. Therefore, we want to ensure that the elaborate blueprints for strengthening these pillars of society, which are available, could be discussed in a normal, humane and democratic manner. Things that deal with legal stipulations, that should be put in to control, to strengthen our democracies and to make transparent the whole issue of party political funding, that is what my statement was going to be about. I will, however, address them in greater detail when we do discuss the anticorruption bill.

I thank you very much. [*Desk thumping*]

Sen. Joel London: [*Desk thumping*] Mr. Vice-President, a lot has already been said on this Bill and it is not my intention to make a lengthy contribution this afternoon, but there are a few things which concern me and these I bring to this honourable Senate today, through you, Sir.

I want us to throw our minds back, if possible, to the contribution on this Bill made by the hon. Minister in the Ministry of Education. We know it was sometime ago because this Bill has occupied the time of this Senate for sometime now, but the Minister started out by saying that his Government was a government that listens to the people.

12.00 noon

In his very next statement, he spoke to the concerns being expressed about the powers of the Minister and, of course, it is something that we keep hearing coming up from time to time. My good friend in the back, Sen. Als, is very versed, as far as the powers of the Minister are concerned. And he is always willing to clarify matters as far as the powers of the Minister are concerned. We keep hearing though, things coming up. The powers of the Minister.

Mr. Vice-President, I have to ask a question this morning, based on the expression made by the hon. Minister in the Ministry of Education that his Government is a government that listens to the people. I have to ask, who is his government listening to? It cannot be the people, Mr. Vice-President, because the people are the ones who are concerned about the extended powers being given to the Minister. If you represent the people and the people have concerns, you have to address those concerns; not sweep them under the carpet, Mr. Vice-President; not sweep them under the rug as though their opinions are unimportant. You cannot do that and then claim to listen to the people. Which people are you listening to?

Through you, Mr. Vice-President, I want to ask the question again. Did the Government listen to the people when we spoke on the Telecommunications Bill, for example? You know, we said that that Bill, was—they listened to the people and the Bill was passed and amendments were taken, but it was not that they listened to people. It was simply that the Bill was badly drafted in the first place. The Government had no choice but to listen. It is not that they listened to the people.

Sen. Gillette: Mr. Vice-President, I thought we are not supposed to bring back Bills previously passed in the Senate? I do not know where we are going with that.

Mr. Vice-President: Yes. Let us stick to the current Bill, please.

Sen. J. London: Did the Government listen to the people as far as the Toco ferry port was concerned? Again we touch on issues of consultation. Was there consultation with the people, as far as the Toco ferry port was concerned? Did the Government listen, as far as the Carenage community was concerned? And we heard other stakeholders being mentioned by Sen. Dr. Lasse this morning. Did the Government listen to Fishermen and Friends of the Sea on the issues concerning Invader's Bay? And once again, Mr. Vice-President, we are here in a

situation where the Government is proving that they are not willing to listen to the people. Once again, they are not willing to listen.

We have said, since this debate has started, that the Bill was cumbersome. We have said that the Bill was heavy. We have indicated that it was necessary for the Bill to go to a joint select committee, where experts can come in and they can have their two cents' worth, they can say their piece and there will be consultation. We can have proper consultation on the Bill. But once again, the Government has not heard the appeal of the people. They have not heard the appeal of the Opposition. They have not listened to the appeal of the Independent Senators. The Government will not listen. I am calling on the Government this morning, Mr. Vice-President, to prove to us that they are a responsible Government and they are willing to listen to what the people have to say.

The hon. Minister went on to speak about the use of land, and that is exactly what, Mr. Vice-President, they have done. They have used the land as a pawn, as a chess piece. They have cut it up and distributed it for private interest with absolutely no concern for the sentiments of the people that they claim to listen to.

Did the Government listen when we said that the Bill needed a two-thirds majority? Once again, they are proving that they are not willing to listen to that. We know that the Constitution makes provision for that, as far as acquisition of land is concerned; and if you are going to infringe on people's property, then it is necessary to have the Bill passed with a two-thirds majority. The Government has not listened to that argument.

The Minister went on to talk about Sou Sou Lands. And when I start to talk about Sou Sou Lands, my first question—I always have to ask the question, when we throw our minds back to the John John fire victims. Do you remember the John John fire victims? There are other situations that came out after John John. The Piparo mud volcano victims. They were relocated, Mr. Vice-President. The Oropune villagers were also relocated, but the John John fire victims got nothing. All they got were promises.

The Government promised to provide accommodation for them; for all the persons who suffered loss, and they went ahead and built towers and priced the towers over their heads so they could not afford them. Then we saw all kinds of Tom, Jack and Harry wanting to buy the towers, and then the hon. Minister in the Ministry of Education gets up and says that he is here to look out for the interests of the little man and the man from East Dry River and Laventille.

Sen. Dr. Moonilal: It is the PNM who built the towers and priced them. Talk to your colleagues quick.

Sen. J. London: The Minister says that he is here to look out for the interests of the little man from East Dry River and Laventille. That he was the godfather of Laventille. Well I want the hon. Minister to know, Mr. Vice-President, through you, that the citizens of Laventille and East Dry River, and the like, have a Member of Parliament who is doing that for them, who is looking out for their interests; and if he was so interested in the development of East Dry River and Laventille and Port of Spain, maybe he should have filed his nomination papers for Laventille West or Port of Spain South.

The Minister went on to speak about land settlement agencies and squatter regularization. I think it hard, Mr. Vice-President, that as a young man, they cannot tell me that my best hope for owning my own home, my best hope for owning my dream home, is to squat on a piece of land for a number of years, until it becomes mine or until it is regularized.

Where is the low-income housing that the Minister spoke about? Where are the \$100,000 homes that they claim to have built? If half of that has already been built, I would like the hon. Minister to tell me just where? All these grand plans that I heard the Minister of Integrated Planning and Development speak about, as far as East Dry River is concerned, to break it down and rebuild it, Mr. Vice-President, that frightens me. It frightens me, because I am afraid for the people of East Dry River. I am afraid that they will suffer the same fate as the fire victims of John John.

All these grand plans to beautify Port of Spain. You know, I listened very attentively to the Minister of Integrated Planning and Development speaking about the ACS headquarters, and when he spoke about the structure of the building, asked about what the building would look like and the relevance of the building, and so forth, the only sentiment in terms of planning and design was that the building must be the tallest building in the Caribbean. [*Laughter*] That is how this Government plans, Mr. Vice-President. They think tall. Tall buildings with nothing inside.

What is the real value of the building, Mr. Vice-President, is what I would like the hon. Minister to tell us. What about the building that brings value to those that will use it? Or does it simply have aesthetic value? Like the million-dollar arch at the Uriah Butler intersection.

I want to ask the hon. Minister, through you, Mr. Vice-President, in all his beautification plans, what exactly is the plan for the people of Sea Lots? Has the Government listened to the plight and the pleas of the Sea Lots people? The original plan for the beautification of Port of Spain had a cultural theme park planned for Invader's Bay.

Invader's Bay has since been sold to big time developers who, Mr. Vice-President, insult our intelligence, who insult our conservationists by saying, and I quote from an *Express* article on Wednesday, March 28, entitled: Mangroves make way for PriceSmart. This was Mr. Derrick Chin, Managing Director of Multi-cinemas speaking about the mangrove that existed in Invader's Bay, and he said that it was a half-acre site, and of little environmental importance anyway. He went on to say, "Look at what is being created where that clump of trees were. They were like a pimple on the face and spoilt the whole look."

Mr. Vice-President, that is insulting! That is insulting to our conservationists! That is insulting to our nation, that he could stand and say that what we value is of little importance and was like a pimple on a face. That is insulting! "Look at what is being created here where the clump of trees were," is what he said.

Can the hon. Minister shed some light, Mr. Vice-President, on whether this theme park plan for Invader's Bay has since been moved to Sea Lots? Well I understand now it is probably being moved to somewhere else. I think they are carrying it down to Caroni. The question is, whether or not any consultation has taken place with the people of Caroni, as far as where the theme park is located. I want to ask the hon. Minister of Education if, under those circumstances, he can take up the plight of the Sea Lots people; the little man from East Dry River and Port of Spain that he claims to want to represent.

A cultural theme park, the scope of which is larger than the Sea Lots area. Where does the Minister intend to put the residents of Sea Lots in this whole scheme of things, as far as the whole makeover of Port of Spain is concerned? Forget the theme park for now. I am talking about the beautification of Port of Spain. What is the plan for Sea Lots, and what is the plan for the people living in Sea Lots right now, as far as the beautification of Port of Spain is concerned? I would like the Minister to shed some light on that. I would also like him to shed some light on a visit he made to the Sea Lots people where he told the villagers that they had nothing to fear. "Sea Lots belongs to you, the residents, and no one will take it away from you."

If he can also shed some light on a subsequent visit that the people of Sea Lots made to his office where they asked him to put certain things in writing, as far as

their not leaving the Sea Lots area was concerned. And the Minister replied to them saying that he could not afford to alter his plans in order to accommodate their problems and lifestyles. It is a report. I am asking the hon. Minister if he can shed some light on whether or not these things are true.

Where is the Deed of Comfort for the Sea Lots people? Where is the Deed of Comfort for Sea Lots residents? The Minister of Integrated Planning and Development has accused past regimes of driving Port of Spain residents out of Port of Spain. He claimed that the People's National Movement government has created a linear city, all the way up the Eastern Main Road. But we are waiting, Mr. Vice-President. We are waiting to see if Sea Lots residents suffer the same fate as the John John fire victims. I understand that they are being relocated now, and plans are being considered to relocate them to Wallerfield. And they accuse the PNM government of creating a linear city.

But it does not stop there, because, Mr. Vice-President, there is a public outcry. The people have been crying out. The public is worried, Mr. Vice-President, and nothing is being said, nothing is being done to allay their fears. Has the Government gone back to the people of Sea Lots and allayed their fears in any way? Has the Government gone to the people of Caroni? Have they gone to the people in Chaguaramas? Have they spoken to the people in Toco? Have they spoken to persons in Blanchisseuse?

Is the Government doing anything to allay the fears of the people? We are hearing it. We are in the Chamber. The Opposition has said it. The Independents have said it. The people's presence in the Chamber, in Woodford Square, is a demonstration that they are concerned, and they are worried. What is the Government saying? What are they doing to allay the fears of the people? There are areas of the Bill that are of serious concerns; and we know the areas. I will not go on to enumerate them. We know the areas. Clause 4(3) and clause 23 speak about compulsory acquisition.

This part of the legislation is of concern to a lot of people. In particular, those persons who own property on our waterfronts. I am particularly concerned, Mr. Vice-President, about the people of Blanchisseuse. What are the Government's plans, and will the Government indicate to this honourable Senate, what are their plans for the Blanchisseuse area? Will the Government now step in and take my land as if for public purpose, to do with it as they please? The land that I may have inherited? The land I may have worked for several years to develop? And they can just walk in now and take it away?

Will they now step in and do the same thing, as far as Toco is concerned, as far as Chaguaramas is concerned? Is the Government saying anything to the people, as far as this is concerned? Because I can assure you, Mr. Vice-President, the people are still concerned.

Who is the Government listening to? Is it a case that you can have your say, but we will have our way? The Government cannot be listening to the people, because there is an outcry from the people that is being ignored. I plead with the Government today, as we did two fortnights ago. We asked that the Bill go to a joint select committee, and Government has shown us that they cannot be trusted in terms of listening to what we are saying, and sending the Bill to a joint select committee. I look forward to hearing from the hon. Minister of Integrated Planning and Development, as far as some of these issues are concerned.

Mr. Vice-President, as I close, if you will allow me to, I just want to respond very quickly, to the closing statement made by the hon. Minister in the Ministry of Education when he closed his contribution. He spoke about my preoccupation with youth concerns. I deliberately stayed away today from youth concerns. Deliberately. [*Desk thumping*]

But, I am preoccupied, Mr. Vice-President, only because the Government is not. [*Laughter*] [*Desk thumping*] Someone has to look out for the interest of the young people. I deliberately stayed away from the topic today, but I want to assure the hon. Senator, through you, Mr. Vice-President, that when I am his age—a very long time from now—[*Laughter*]—I will look just as good as I look today. [*Laughter*] God willing, I will be around after his time has passed.

My concern, Mr. Vice-President, is while I am here in this Chamber, and part of this entire decision-making process. I am really privileged to be here. It is an honour to be here. My concern is that as leaders today, we do not put legislation in place which would hinder, or which can hinder future generations from taking care of themselves. That, Mr. Vice-President, can never be sustainable growth.

So, call it a preoccupation, but I want to close by saying, never before has so much debate been generated about the role of young people, and I am certain that whenever policymakers sit, they will always remember the youth of our nation. If for that reason alone, Mr. Vice-President, then I have done my job.

I thank you. [*Desk thumping*]

Mr. Vice-President: Senators, I think that this is a good time for us to take the lunch break, but before we do so, let me state, for the record—and as presiding officer of this honourable Senate—that it is my duty and responsibility

to regulate the business of this House, and to do it in the context of our Standing Orders. Therefore, I would like to appeal to all Senators on all sides of this honourable Senate, if they have not studied it, to do so. Study the Standing Orders and assist the Chair in ensuring the business runs smoothly in this honourable Senate. [*Desk thumping*]

Bills generate a lot of passion. When I was like Sen. King, [*Laughter*] I know Bills can generate a lot of passion. I know that this one is generating a lot of passion and I really would like to ensure that every single Senator, without exception, is allowed to make his or her contribution without any interruption from the presiding officer. [*Desk thumping*] It is not my business to interrupt, unless the Standing Orders are being infringed.

So I would like to appeal to all Senators for us to continue to conduct our affairs in a civilized and dignified manner, so that this Senate can retain its stature as a place that all of us could be proud of. [*Desk thumping*]

At this time, we suspend the sitting for lunch, and we resume at 1.20 p.m.. This sitting is now suspend until 1.20 p.m.

12.20 p.m.: *Sitting suspended.*

1.20 p.m.: *Sitting resumed.*

Sen. Dr. Eastlyn McKenzie: Mr. Vice-President, let me begin by saying that it is indeed a pleasure to be able to join the debate on this very important Bill. We have had very many contributions made to the debate from both the Opposition and the Independent and also from the Government side. What I want to say at the outset is that I do not want it to be construed nor do I want people to believe—especially Members on the Government side—that everyone who has spoken from this side, whether from the Independent or the Opposition, is against having a modern workable Bill. That is not the intent at all. [*Desk thumping*]

What I know is happening, Mr. Vice-President, is the fact that the Bill in its present form leaves a lot of room for misinterpretation and the wrong perception and, therefore, we must conclude that if you have a Bill that does this, something is wrong with it. What we are setting out to do is to correct the wrongs.

What struck me about the Bill when I read the objectives about establishing a system of planning and development approvals, designed to secure predictability, simplicity, promptness and transparency in treating with development, et cetera, is that the Bill makes its own mistake. When I say that, I mean this. Here we have a Bill that says in its body that we should consult with people, talk with people, that

people must understand what the Bill entails and the processes that go with the Bill, and nobody did that with the Bill before. In other words, this Bill that is before us has not been discussed with the people out there, therefore, they do not understand and they do not know what is in the Bill and when you read some of the clauses in the Bill, it does not help you.

Mr. Vice-President, when you think that there have been 86 amendments proposed to this Bill, can we not come to the conclusion that something is radically wrong somewhere? Eighty-six amendments, Mr. Vice-President? That would tell me that something is seriously wrong with the Bill as it is.

Mr. Vice-President, the Bill has some good. There is the intention to bring about order, there is the intention to bring an end to the toing and froing, hopping here and there to get a plan approved because you have to go here, there and everywhere. There is the good of the promise of transparency if, according to some of the clauses, we have these public hearings and these publications, we have some good in the Bill. The Bill has opened up discussion all over and I am very concerned about some expressions from some Members on the Government side.

Sen. Als in his contribution talked about the present Bill—the Town and Country Planning Act has more stringent rules than the Bill that is proposed and he talks as if it is a justification to carry on something that is not right and good. [*Desk thumping*] As if we are stagnant people, not looking for development and improvement. This is the point I want to make.

[*Sen. Als stands up*]

I am not giving way to Sen. Als, Mr. Vice-President. [*Desk thumping*] He is my very good friend, but I am not giving way to him. I want to tell him that when he says that the present Town and Country Planning Act says the Minister this, and the Minister that, as if we were not growing up as a people, as if we, as a people are not going to stand up for what we think is right and what we think are our democratic rights in this age and this era. I am saying that because you start off the Bill by saying that you want to make it a better Bill more in line with today's thinking and future plans, I am saying that what is old and archaic must go. This is the point I want to make.

Mr. Vice-President, I want to bring to the attention of the Senate some of the major concerns. I have listened and there are many concerns but there are some major concerns and I want to give you my spin on why I think we should really consider them. Many people, both inside and outside—we have read, we have

heard, we have listened and one of the contentious issues is the power of the Minister.

Let me tell you why I have a problem with the power of the Minister. I think in many instances and in this case—I know the hon. Minister does not agree with me because I spoke to him about it. I feel because of who the hon. Minister of Integrated Planning and Development is now—his expertise, his experience, his passion for architecture and his passion for the environment et cetera, we have formulated a Bill to suit the character, the ability, the expertise of the person who is the present Minister.

I want to tell you why I am scared, Mr. Vice-President. I have had reason to sit in this Senate and have known of one Minister being in charge of a ministry and he has ruled on a suggestion or whatever and he has said no to it. It happened in the case of Tobago. We had an area of land. The owners proposed the area of land for a special project. When, after some years they thought the project was not viable, they applied to the then Minister for permission to change that idea into something else. The Minister turned it down, they did not worry, they say you must go, you must leave the country, somebody will act for you. As soon as the Minister left, in one day the approval was given that the substantive Minister had turned down.

Mr. Vice-President, do not rule me irrelevant but we just had it a few weeks ago. One Minister said you are not supposed to go to a Habitat Conference wherever it is, the Minister goes on holiday, two Ministers come up, they take the proposal, send me here, send me there, the Minister says: yes, you can go, overruling the substantive Minister. The sad thing is that the man who went was fired. So this is my contention of putting so much power in the hands of a Minister who, in our case we know is competent, but suppose he goes somewhere and somebody acts for him?

Sen. Daly: What about Chaitan?

Sen. Dr. E. McKenzie: So you understand my concern, Mr. Vice-President? My concern is that we must not be modest in our analysis of issues because of whom we are dealing with. We must take the matter as seriously as possible.

The second area of contention is that there is a call for a special majority. Members feel, or people outside feel, that because in certain areas of the Bill people may be giving up some of their rights, there should be a special majority. I have been chatting about this and people have said why they think it would be better if we did not have a special majority than if we had one. These are the

matters that people would have discussed, giving all sides of the issue, and causing you to come to a very informed decision. I hope that someone will explain the pros and cons of a special and a simple majority.

The third point is, Mr. Vice-President, we are all concerned about the perception that the powers of the Environmental Management Authority (EMA), the local authority and the Tobago House of Assembly (THA) would be usurped, and as I talk about the EMA, people think that it might become a toothless bulldog. I have been hearing that soon we may have no EMA at all because I understand that seven persons including two top managers have been asked to reapply for their jobs. So I do not know whether we have started not to usurp the powers, but to squash the EMA.

My next point is the question of compulsory acquisition and I want to turn to clause 23(5) and tell you why we in Tobago are very wary of this type of proposal and it just goes with the little phrase that says "as if". Mr. Vice-President, I do not know how you all talk in Trinidad, I know how we talk in Tobago. When we say: "Do as if you are going to cuff the man." We mean pretend. We mean pretend that you are going to cuff the man. You are not cuffing him you know, you are just behaving as if you will cuff the man. So when I read this thing:

"Any designated land in an operative development plan may be acquired as if the acquisition is for a public purpose."

You see that, that is something that we have to correct if Tobagonians are to be governed by this Bill because you see that phrase "as if". We "doh" want no man playing they cuff "yuh" and they really "aint" cuff "yuh". So that is a no-no.

Mr. Vice-President, another concern that we have is the required staffing for the local authorities and the Tobago House of Assembly, and there is where the Minister of Finance must come in because he will have to say whether he has money in another year to staff the local authorities and the Tobago House of Assembly to carry out the duties that would be handed down to them. We need to know this, otherwise we may find that we have everything in place and we cannot implement the Bill as it should be. So I am hoping that when the Minister of Finance reads the budget in the next two months we will hear how much is going for this new item in the budget.

I also want to talk about the seeming overriding of the powers of local authorities including the Tobago House of Assembly by the powers that will be. I will do clause by clause with some little issues I want. The Bill definitely says areas not governed under the Tobago House of Assembly, Schedule 5, but Mr.

Vice-President, you were here, many of us were here and we saw what happened with the Tourism Bill. It is under the Tobago House of Assembly under Schedule 5, but yet we have that sort of residual power that we could take it back and give it at will and I would have much preferred to see that you are not going to deal with anything at all that comes under Schedule 5 unless the Tobago House of Assembly asks you to. I do not like this overriding power that we seem to have.

Now, Mr. Vice-President, I just want to skip through some little things I had marked off here. On page 30 clause 6(1)(e) we listed the principal functions of the commission and one of them says:

“(e) to co-ordinate the land development approval process and ensure timely granting...”

What is timely? Two months, three months, two years, four years, five years, one month for you, and six months for somebody else? It is complicated. I would have liked to see the word “timely” being expressed in a space of time “not longer than” or whatever—but timely? It could be timely for some people who are sleeping for a year.

Mr. Vice-President, I talked about clause 6(g)(i) which says:

“any matter that is not subject to the jurisdiction of the Tobago House of Assembly...”

Then it is said: “Well, we do not know when you will give the power and when you will take it back.” I would also like to know whether the Tobago House of Assembly will have to make its own regulations. This is something I will like to find out. Will the Tobago House of Assembly have to make its own regulations?

Page 33—I love the clause establishing public education and this is what I am saying. If we inform people there will be very little need to have to explain because they will ask you questions and you will satisfy their concerns and I think that this public education is very important and we need to take it seriously.

I go to page 34, clause 6(f) and I am saying when you publish journals and all these types of things, it is only a certain set of people who would read them. Put it in the newspapers as a pull-out and let people pull it out as a special segment in the newspapers especially on a Sunday when everybody who did not buy a paper during the week will buy one on a Sunday. Make a newspaper pull-out a very essential part of the whole thing.

Mr. Vice-President, I am on page 36, clause 11. I want to know whether these people who will be delegated to such committees will be from within the commission or are they—It says:

“The Commission shall appoint Standing Committees and may delegate to such Committees any of the following functions:”

Will these members of the committees be from within the commission? In other words, make sub-committees from within the commission or are you going outside? That is not clear to me and I will like to know.

I like clause 15(2) on page 38 where it says: “...not later than two years...” That is the type of detail I would have liked when I saw you putting a time.

Clause 16 where the Minister would have that power to delegate someone to do a development plan other than for the whole of Trinidad and Tobago. I thought that clause 21 was good on page 45 and I am saying that.

Mr. Vice-President, I go to page 51, clause 23(5). I have already dealt with that but clause 23(6) says:

“Where any designated land has not been acquired by the Minister or other public authority at the expiration of five years from the date on which the plan was approved or was deemed to have been approved by Parliament, any owner...”

Mr. Vice-President, five years? Five? Do you think I could go to buy a piece of Sen. Als' land and tell him five years down the line? You have to put a down payment. No down payment and you wait five years to tell me after you take my land, and the history we have of paying for land 10, 15, 30, 40, 50 years and after five years you are coming to tell me this Mr. Vice-President? It is so unfair and I think that we should look at this and change it, otherwise I think that we are going to run into some trouble with some people.

Mr. Vice-President, I would like someone who speaks after me from the Government side to explain to me clause 29(4). I will tell you why. Ordinary people do read and ask questions and one person asked me: “Dr. McKenzie, if I have a house and I put up a sign ‘Sewing done here’ what are the implications of that?” So simple things like that we need to explain.

I want to go to clause 29(1)(a) and I want to give my own experience. I live not very far from the Nipdec facilities in Tobago and many times they have a fete there and nobody can sleep. You hear the boom boxes in your stomach and sometimes you really get up and look under the bed to see if there is some music

playing under there. It is so loud and so long and very soon they are going to site the hospital even before you get to where I live coming from Nipdec and you also have it at Market Square. Many times we make laws and you get the impression that breakers of the law are encouraged by the courts. Let me explain what I mean.

1.40 p.m.

Here we are saying that when you use the building or the lands for a reason that was not approved, that is a breach. But you will have the magistrate who may not know about the legislation granting a licence for a fete at Nipdec or at Market Square and when you query the promoters of the fete, they say that the magistrate has given a licence already and the police did not object. So we need public education, not only for the public but also for the people who will implement the law.

I go to page 63, clause 34(4):

“Every register kept under this section shall be available for inspection by the public.”

Where are you going to display this register? You must say whether it is in the local authority's office, otherwise the public would not know where. If we are going to publish it, we must remember that we must put it in somewhere. In other words, although you cannot spell out everything in the Bill, in the public education, in announcements; in the publications and journals, you should say where the register can be inspected. Otherwise it could slip you and people would be running to and fro again. I know that clause 36(7) was brought up by Sen. King, so I am not going to waste time there.

I am concerned about 38(1). There are these conditions and it is saying that they are going to consider other lands that you may have when they are considering the development of one piece of land. I find this so very, very strange, that you are going to think of another piece of land belonging to the same owner, when you are considering a plan for one piece. I think this could be very, very dangerous because I know of people who have land where they live and elsewhere. You cannot tell me that I would have an application for development here, but you have to study what I have elsewhere.

I was very concerned about the powers reserved to the Minister in clause 48. I have already given one reason. Clause 48(1)(a) to (e). It says that the Minister has certain powers and what he can do and cannot do, according to the type of

development that the person would have applied to do. If it involves issues of more than local importance, if it is architectural issues, if it involves the interest of a foreign government and so on. If I put in an application, it does not go to the Minister, it goes to the National Planning Commission. How will the Minister know this? It means that the Commission would forward the application to the Minister. Otherwise it gives the impression that the Minister knows what is in the application before it actually gets to the Commission.

I am saying that it should be “in the opinion of the Commission” and the application should be referred to the Minister. Or from the very outset the Minister should say to the Commission, “any application that comes to you, and in your opinion it involves any of these issues, refer them to me.” So the rule is there beforehand and it does not look as if the Minister will intervene for certain applications, giving the perception that he is only interested in some applications and wants to get involved in those. I think to be transparent we should look at how we make regulations to govern clause 48 in the Bill.

I go to clause 48(7). I see where the decision of the Minister on any application referred to him under this section is final. No third umpire. The umpire say “out” you walk.

I would like to know whether in 48(6) that person would be an independent person. A person appointed by the Minister for the purpose of determining any application and so forth, will that person be independent? How is the selection to be made? I would like to know that.

I am very cautious about clause 49 and compensation because I want to warn about setups. From our own experience, there may be proposals to develop a road and when people hear that there would be compensation for all crops that would be destroyed, they plant crops overnight. When you are ready to send the tractor, all those crops that were planted overnight have to be valued. Special consideration should be given to these clauses so that we do not have any setups for compensation.

I go now to the First Schedule, the composition of the Commission and that the representative of the Tobago House of Assembly is ex-officio. I want to suggest that we promote the person who would be representing the Tobago House of Assembly. It does not take much to do that, I hope, but at least it would give us in Tobago the impression that you are serious about the representative for Tobago having a voice and a vote. As it is when that person returns to Tobago and says that he did not have a choice when a vote was taken on a matter concerning Charlotteville, then we have to excuse him. If the person has a vote, we can ask,

“How did you vote?” But when you put the person as ex-officio, I am not sure that we have very much say or very much clout.

Mr. Vice-President, I want to say something about the debate on this Bill and the type of feeling that some of the Government Senators give when other people, not on the Government side, obviously, make a criticism or say something that does not fall in line with what they expect.

Mr. Vice-President, you just said it when we came in here that we are here to perform on behalf of our beloved country, Trinidad and Tobago. And some of us take this very seriously. When we criticize because of insufficient information, we say the thing, as we perceive it. We do not mean to be mischievous, we do not mean to derail the Government’s plans, we just use the information we have to come to the conclusions that we have. And as such it bothered me a few weeks ago when my very good friend, Sen. Als, in commenting on the contribution made by temporary Senator Outridge, wondered aloud whether the Senator was talking as an Opposition Member.

It bothered me and I tell you, Mr. Vice-President, that if I did not say it I would not be honest to myself. I do not think we should construe criticisms. What was sad about it was that Sen. Outridge criticized the former administration as well. I listen intently when people are speaking. He criticized the former administration as well. He criticized the statement he was making.

1.50 p.m.

I want to make it abundantly clear, Mr. Vice-President, that I do not think anyone, especially Senators on the Independent Benches—by the way, let me just say to Sen. Dr. Lasse, if you will forgive my straying a little, Sir, that Sen. Daly does not have the authority of the eight of us to give any free service anywhere. [*Laughter*] That was meant as just a little light-hearted banter. It is not serious.

Mr. Vice-President, what I want us to realize, especially in this Senate, is that when we come here we want to make the best possible bill before it leaves us. When the bill leaves us and goes down to the other place, there must be very little room for improvement. It must be a real oversight or it must be for politics. It must not be for lack of good framing, good language or well-constructed clauses. It must be a really good bill. That is why we question, probe and throw out tentacles. We feel out people and seek answers. We try to alleviate fears. This is the type of spirit we would like to see in this Senate.

Planning and Development of Land Bill
[SEN. DR. MCKENZIE]

Tuesday, July 24, 2001

Mr. Vice-President, through you, I would like to tell the hon. Leader of Government Business, that he must judge the tone. He must judge the tone and ask his Senators to come with a certain amount of tact so that they can get the best out of us.

Sen. Daly: Class.

Sen. Dr. E. McKenzie: That is what we want. We want class and standard. We would all misinterpret because we do not have the information.

Mr. Vice-President, I am sure that after the row we heard from the public, the points, proposals, amendments and discussions that emanated from Senators in this place, that we are going to sit—I know that there are some very sober judges on the other side—and we are going to hear explanations as to where we were wrong and probably why we were not getting it right, and also where the Government has gone astray. Let us take the phrase “as if”, I hope we would delete that totally without even a debate on it because it is sending the wrong signal and giving credence to what many people out there are saying. People out there are saying, “Doh bother with them, they are trying to fool all yuh and say the land they are taking will be for this and that and for public purpose. You eh see they put in the ‘as if’? That is just a pretence to fool the people.” I would not believe that. I could not believe that. Not with honourable people around us, for one, like the hon. Minister.

We are all in this together. We know that the attempt has been to improve the Town and Country Planning Act. We know that this has been an attempt and I am saying that we have many clauses that have actually shown that there is an improvement in the Bill. We have seen that, but the five or six clauses that offend so deep, and are really so strong, we cannot let them pass by. I have seen the amendments, but I have not read them and I hope that when we come to the committee stage that the very good sense we have will prevail and that we would send out a Planning and Development of Land Bill that this hon. Minister would be very proud of. We as members of this Senate, in passing it would feel very proud, indeed, that we have given to this country a bill at this time that could not be better.

Thank you very much, Mr. Vice-President.

The Minister in the Ministry of Legal Affairs ((Sen. The Hon. Gillian Lucky): Mr. Vice-President, let me state from the outset that it is no easy task having to make a contribution right after having heard the very stirring plea of Sen. Dr. Eastlyn McKenzie. She categorically stated that she hopes for—I would

go on to say and prays for—and looks forward to contributions coming from our side that would be devoid of personal attacks and which will have the characteristic of contributions that are meant to work together and really be in the best interest of national policy and the citizens of Trinidad and Tobago.

Having, hopefully, through you, Mr. Vice-President, put succinctly what is the hope of Sen. Dr. McKenzie, I now hope that I do not disappoint her in any way with my contribution. I know she always listens very intently to all contributions in the Senate, and coming right after her, I know that I can be bold enough to say that she is going to listen even more intently and look even more, with those hawk eyes that she possesses, when it comes not only to the legislation, but also to the behaviour of all Senators in this honourable Senate.

Let me, therefore, having said that at the outset, go straight to, perhaps, hopefully make Sen. Dr. McKenzie's day, and the day of all other Senators, by indicating that there is a proposal that is coming from the Government side in which those allegedly offensive, assuming but not admitting, particular two words that have caused problems in clause 23(5), that is "as if", would be removed. It is our proposed amendment that that particular subclause be read more in line with what presently exists in the Town and Country Planning Act. I feel that if, at the beginning of my contribution, I am able, on behalf of the Government side, to offer such a gift to Sen. Dr. McKenzie, I would not be giving her false hope for the rest of my contribution. [*Desk thumping*]

Mr. Vice-President, during my contribution I would not, in any way, be able to answer all the questions that have been raised, but I know that Sen. Dr. McKenzie has always said that she listens to the debate from beginning to end and is then able to compile, for the benefit of all of us, a list of those clauses and issues that are of concern to all. As the hon. Senator spoke I began putting, in point form the particular clauses that were of concern, not only to her, but to various other Senators. I will not be so ambitious to answer all the concerns because I know that the hon. Minister will be able to do so, however, there are certain issues that I hope to address in my contribution.

I hope that by my contribution the concerns of those who have fears—and there are many who have fears who are operating under what may be misrepresentation not by their own fault, but by what may have been bandied about—or their own interpretation, would be put to rest and they would be given the assurance, as we on the Government side are giving the assurance, that this is a bill that has no ulterior motives. This Bill has one motive, and that is, amongst all the other objectives listed, to ensure that we have a bill that would be passed

Planning and Development of Land Bill
[SEN. THE HON. G. LUCKY]

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and we can all be proud of and one that is in the interest of all the persons of Trinidad and Tobago. That is how this Government operates.

2.00 p.m.

Sometimes we may be on different paths in achieving that end, but at the end of the day, that is always the mantra, if I may say, with which we operate. Maximum happiness to the maximum number of people. That is what democracy is all about.

Having always said that I do not like to get carried away with the politics, I wish to do something which I heard Sen. Morean say this morning as an aside. That is, get to the substance of the Bill. I remember Sen. Dr. McKenzie—again, this afternoon I seem to be using her a lot. I think that in this context it is necessarily a good thing, when she said that we must talk plain and say things as they are. Give the explanations where they are necessary. In the circumstances therefore, I intend to deal with the issue of the special majority; the issue of clause 23(5) and (6) that deal with compulsory acquisition and clause 29(4) that deals with the issue of advertising—I must say that I would be dealing with that not in any very detailed way—clause 38(1), in which Sen. Dr. McKenzie pointed out that she was concerned about why we are dealing with land that is not necessarily land that is the subject matter of the particular application; clause 48(1) and (7), in which there is the concern that the minister's decision is final; and in essence also dealing very quickly with any other issues that I think have been raised and made persons concerned in areas where I really think, at the end of the day, there is no need for any panic button to be pressed.

When preparing for this particular contribution, one of my acquaintances indicated that they were concerned whether we on the Government side could really understand what land means to people. In a particular regard, I was told that I would not be able to understand what land and property mean, so I would not understand why people are so passionate. We have heard some very passionate, emotional and comprehensive contributions in the Senate and also in terms of what we have been reading in the newspapers and seeing on television. I would not be able to understand it because this Bill is affecting the man on the street. People who have property already or people who are not disenfranchised in any way will not understand.

I took strong objection and great umbrage to that comment made by that acquaintance. I indicated that I feel that I can understand very well why people are so concerned about this Planning and Development of Land Bill. I believe

that in life we all have things that we want to achieve. If I had to prioritize I would say there are two things which people really strive for in life: One is an identity and the second thing is to know that they own something—that there is something in this world, in Trinidad and Tobago to be more specific, that they could say is “mine”.

Nothing best expressed that to me or drove the point home than about 20 years ago, when I studied the book, *A House for Mr. Biswas*. Taking what I consider to be a very great novel written by Sir Vidia Naipaul and hoping not to offend the sensibility and expertise of Sen. Prof. Ramchand, I think that remembering the CXC question I particularly answered, it asked: What theme in that book mostly affected the student and why? As a student I wrote that what really affected me the most or impressed me the most and had the greatest impact, was the desire Mr. Biswas had to own a house or property that he could call his. Perhaps, the irony throughout the book is that sometimes the harder he tried, the harder it became for him to attain. The fact is that I got a “1” with a straight “A” breakdown, so I do not think that I could have been too much off course.

The point is that it took me 32 years—I am sorry that Sen. London is not here because I always like to remind him that I am just four years ahead of him—before I could own a piece of property, of which I am constantly reminded every month when the deduction comes from Trinidad and Tobago Mortgage Finance company (TTMF) that the property is really not mine. It is encumbered. I know how I felt when in my 20s I was still living at home. People would say, “Why don't you move out of your parents' home and get something?” Then I found that in my late 20s really wanting, and having in my view, my sense of belonging and identity, that I wanted to own something. That is the passion that I still have and I can understand that people have. It is something that you want to know when it is yours, nobody could just come and take it away.

I think that what has been unfortunate is that there has been much interpretation of this Bill that amounts to misrepresentation. Again, I say that when I use the word “misrepresentation”, I am not casting aspersions on anybody. I agree with Sen. Dr. McKenzie. Where there are misunderstanding and misrepresentation, it is for the Government to give that level of elucidation and amplification, so that people could better understand, why we in the Government are asking for the support for this Planning and Development of Land Bill. We are saying that in no way, is the Government going to deprive persons of rights in any way that would be deemed to be non-democratic or unjustifiable.

Why do I say this? Before going into the specifics, might I indicate that when Sen. London said in his contribution that we were not willing to listen, I did not get up, but I do not think that the Standing Orders would have allowed it. I just nodded my head with a sigh. I want to be clear so that no one stands with Standing Orders that have already been decided upon. I am not saying that his statement was mischievous. I am not saying that his statement was misleading. I am not saying that his statement was a misrepresentation. What I am saying is that his statement was unfortunate. Unfortunate, because one of the things that I know for a fact has been done through this entire debate is that we on the Government side—and I include myself in terms of the category of persons who was writing as people spoke—took the proposed amendments and written contributions of all Senators, both on the Opposition and Independent Benches. We listened carefully to them.

I know for a fact that it was not just this weekend, but weekends prior to this particular weekend that we sat down and literally went through clause by clause. There were instances where without any great debate, we were able to say that this particular amendment as proposed by an Opposition or Independent Senator is a good amendment. Yes, it drives home the point. Perhaps, we should look in this particular direction. That is why sometimes I feel—with the greatest respect to Sen. Dr. McKenzie—that we are in a catch-22 position. We label in Parliament, there is extensive debate and we listen. Then, we come with proposed amendments which in many instances are voluminous. We are in catch-22 because when we listen and we make the changes, we are told that something had to be wrong with this Bill because look how many changes you had to come with. Something is still wrong. If we do not make the changes, then we would be accused, like Sen. London said, of not listening. It is either that we are not listening or something is wrong.

I take the point of Sen. Dr. McKenzie when she says: “These are concerns. Now address them.” That is what I am about to do. I start with the issue of the special majority. I hope that I am not misquoting him, so that my statement would be unfortunate. I am sure that I heard correctly when Sen. London suggested that because we were compulsorily taking—I know that he is not here; I would stand corrected by any Senator and I would give way—land in this Bill, it meant that as in previous legislation when similar Acts were done, be it the present Town and Country Planning Act, or the Land Acquisition Act, there should be a special majority. By virtue of what was being done in the Bill, there should be a special majority.

Perhaps the point is not being driven home enough. I want to make it clear that we are not looking primarily at section 4 of the Constitution in this case.

That is the section that deals with the fundamental right of enjoyment of property. You cannot be deprived of that right without due process of law. We are actually more concerned in this instance with section 6 of the Constitution. I will read it as quickly as I can. I am often accused of speaking too fast. I think that I will still try to speed up and be like Daryl Brown and Ato Boldon. Part II, section 6(1) states:

“Nothing in sections 4 and 5 shall invalidate—

- (a) an existing law;
- (b) an enactment that repeals and re-enacts an existing law without alteration; or.”

This, I think, is the important paragraph:

- (c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.”

Later in subsection (3) it says:

“alters” in relation to an existing law, includes repealing that law and re-enacting it with modifications or making different provisions in place of it or modifying it;”

In other words, in the present context this means that as long as it can be demonstrated that this Planning and Development of Land Bill, though containing provisions that differ from the existing provisions of the Town and Country Planning Act, does not derogate from any fundamental right, in a manner in which the existing Act does not derogate, then, the Bill is saved as existing law and does not require a special majority.

Sen. Prof. Kenny: I thank the hon. Minister for giving way. I would like some clarification. A joint select committee of the Parliament of the Republic of Trinidad and Tobago met on the matter of this Bill in 1999, and requested in writing a legal opinion on the constitutionality of the proposal to pass with the simple majority. I am informed reliably, that there was one opinion produced by the executive, the Government and the second opinion which was sought externally. These opinions are there as physical pieces of paper and yet a joint select committee of the Parliament of our country was not allowed to see these opinions. There must be an explanation.

Sen. The Hon. G. Lucky: Mr. Vice-President, through you, if I might indicate to Sen. Prof. Kenny, that in my preparation for this particular Bill, I asked for any legal opinions that had been solicited. In the legal opinions that were given to me I was not privy to any that came from foreign counsel. The legal opinions given to me were actually based on the Planning and Development of Land Bill, 1998. The two opinions that I have read did not address, as far as I have read, the particular clauses that would have called for a special majority.

2.15 p.m.

It did not make reference to the existing laws that I am indicating in the Town and Country Planning Act as it exists now, and what the Bill proposes in the clauses that we have in the Bill itself. It did not address that issue in terms of section 6. In order to get what might have been a second, third or fourth opinion—because I was not part of that select committee, as one would know—what I did was then start the matter afresh, so to speak. Then, based on the opinion that I have received and of my own understanding of the law, I remain of the view that there is no need for a special majority. But, there are clauses that I intend to deal with in my contribution that would call for amendment, and those are contained in the proposed amendments of the Government.

Sen. Prof. Kenny: The clarification that I sought from the hon. Minister is: Why is a joint select committee of the Parliament of this country denied an opportunity to see written opinions requested by that committee? The Executive branch of the Government is failing in its responsibilities to a joint select committee of the Parliament, which is the highest forum.

Sen. The Hon. G. Lucky: Mr. Vice-President, if, through you, again I can indicate to Sen. Prof. Kenny that with the greatest respect, I do not think I can really answer what he is asking given the clarification that he needs. Certainly, he has ventilated something he feels dissatisfied about. If I had it, I would give it, but I do not have it. Why he would have been deprived I really cannot answer. I feel I might lead to more problems if I sought to give something I cannot help him with.

This afternoon, if I might, I will try to give some elucidation on the law as I understand it. In other words, there are some concerns that I did, in fact, see and I am indicating that I did see an opinion but I would not know, in fact, if it was the opinion as solicited by the Joint Select Committee, as asked.

Sen. Prof. Ramchand: I mentioned this seeking of the opinion too, and my understanding was that the opinion was sought from the Solicitor General.

Maybe, that would allow the Senator to say what it is she actually saw, or whether, she saw that one from the Solicitor General.

Sen. The Hon. G. Lucky: Mr. Vice-President, through you, what in fact I did see was an opinion that seemed to have been written in 1998. It was not dated but it referred to the Planning and Development of Land Bill, 1998. What I did see was an opinion that came from an officer in that department. I understand there was not just one select committee and I cannot say whether that opinion was in furtherance of the Joint Select Committee asking—it would be wrong of me to mislead the Senate and I certainly would not want to mislead it.

In the various contributions, there were certain clauses that seemed to have raised that red flag to suggest that there would be need for a special majority. One of the clauses that was raised—and I intend to just go through them as I remember—it was, in fact, clause 23(5). That is the clause that contains those words “as if”. I know Senators were given the proposed amendments of the Government late in the day, but if Senators would look at the proposed amendments of the Government, one of the proposed amendments is, in fact, to clause 23(5) whereby there is a deletion of that particular clause as it stands, and instead an insertion of a clause that is along the lines—When I say “along the lines”, I mean in conformity almost wholly to that of section 31(1) of the Town and Country Planning Act. I am not going to read it but I am making reference to it. At the end of the day when I ask—because, Sen. Dr. McKenzie, if she would allow me, if I might say we do share something—I like to understand why a particular phrase or clause might be inserted.

What was explained to me was that clause 23(5), as it stands, was not meant in any way to change the existing law. It was an attempt to try to make the law, believe it or not, a little simpler in terms of taking what was about six lines and making it two and a half lines, if you may. If that leaves the level of ambiguity and the level of dissatisfaction as expressed in this honourable Senate and outside then, I think the Government owes a duty and has responded honourably to that duty by saying delete the clause as it stands and insert instead a subclause which is stated in the proposed amendments. I am sure when we come to discussions in the committee stage, there will be further clarification or amplification, if it is so necessary. If I may go to clause 23(6)—I join all hon. Senators, even those on our side who said that there is concern with what I will call the five-year waiting period. I know how people feel when they own property and there is something that may or may not be done to the property which is envisaged in subclause (6), and then you are told there is a five-year waiting period. I think Sen. Dr.

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McKenzie articulated what has been expressed by many hon. Senators in their contributions, that somehow this was just not satisfactory.

I want to be clear when I am responding to this particular subclause (6). What presently exists is a 12-year waiting period under the Town and Country Planning Act by virtue of section 5(6). I am not saying, because it is 12 years now, be happy and accept that it is five years. That is what seems to have—and I want to use this word “incensed,” Dr. McKenzie, but I am using the word, “incensed” in its very limited regard. It seemed almost well, it is 12 now, one should better accept five. That was never the intention of the Government and it is not the intention of the Government. The Government is trying to be as realistic as it can in terms of reducing the period of time from 12 to five years but this is not something that is going to remain static. In other words, it is not going to be five years for the next 15 or 30 years. The problem is: How do you come around it? I will say, hon. Senators, quite openly and frankly—and as I think all Senators by now would have realized I am very forthright—that it was toyed with this weekend: How can we in some way address subclause (6) and make it not just more palatable, but how can we reduce the period of time?

Sen. Prof. Kenny, in fact, in his proposed amendments made a certain suggestion whereby, that from the time the plan is accepted, it would be deemed to have been acquired, and as a result the land could be dealt with. We are going into the committee stage and one has to remember this is a Bill that is meant to be our Bill and maybe, I am literally asking, perhaps not pleading as much as Sen. Dr. McKenzie pleaded in her contribution, to let us really put our heads together to see what better we can come up with.

One suggestion was to delete clause 23(6). When I was preparing I said okay, because there are proposed amendments that suggest we should delete it. The problem is when it is deleted one would have no time frame, and there would be need to go back to the Land Acquisition Act because the Town and Country Planning Act is being repealed. So, what one would have is a worse situation. The reason I am sharing this evening and I am saying when we come to the committee stage is perhaps, this is something we could think about and that is why I am not suggesting that we delete it. My concern and our concern is if we delete it we might be going into a situation where there is no time frame at all. At this stage what is better is that we have at least five years. It may not be wholly palatable but it is better than the 12 years. I am sure Sen. Dr. McKenzie understands the way in which I am saying it, which is not, it is 12 now, accept five now, because that is not the way the Government is saying it.

Clause 49 of the Bill was really redrafted for the purposes of ensuring clarity. Certain subclauses were redrafted for clarity but the intent remains intact as well as the Minister's powers.

And if I may say, clause 49 of the Bill is equivalent to section 15 of the Act. One has to remember that these allegedly offensive clauses which seem to have raised the red flag of needing the special majority—the point we are trying to bring home is that these are clauses that are already represented in the Town and Country Planning Act.

Clause 50, which is another clause that is almost equivalent to section 15 of the Act, goes further in that it gives the developer a right to be heard.

When one looks at clause 53, it is a clause which allows the commission or planning authority to enter land and take the required steps. This particular clause is analogous to section 17 of the Act.

I remember Sen. Dr. McKenzie said in her contribution that it is just not acceptable to say that is the way it is now, so you have to accept that is the way it is going to be by virtue of this Bill. By looking at clause 53 a concern was raised as to whether it should be kept the way it is, which is just to allow the commission or the planning authority to enter on land. It says, the commission or planning authority may enter on the land and take the required steps.

One of the suggestions made, and it is reflected in the proposed amendment of the Government, is not just to leave it as it is but to insert an additional phrase in that clause that says right after the word "may"—however it is put in the exact proposal, but it would be "after having obtained a warrant issued by a magistrate". What one is really doing is ensuring that although in the law as it exists now, one does not need a warrant to ensure that one has to go before a magistrate, it is not just seen as an arbitrary act but one to ensure that there has been a level of reasonable thought given to it.

Then, there is clause 59 of the Bill, which is, in fact, the clause that deals with the discontinuance orders and where compensation would be given. This is a clause similar not to the Town and Country Planning Act, but I am referring to clause 59 and clause 23, where clause 59 attracts section 4 of the Constitution. I indicated earlier there are some clauses that were in existing law that do not need a special majority by virtue of section 6 of the Constitution.

When one reads clause 59, however, there are certain steps that are required to be taken and that these steps would amount to the proviso, so to speak, or the

protection that is given in section 4 of the Constitution which says that one is entitled to enjoyment of one's property, that it is your fundamental right and the only way that one can deny you of that enjoyment is if the due process of law has been followed. Contained in clause 59 are detailed steps where compensation would be payable, where there is the right to be heard, and we are saying that would now attract section 4 of the Constitution, meaning the right to enjoyment of property without due process of law. In other words, this would make sure that there is due process.

I hope that what I have indicated so far might in some way assist not only Sen. Dr. McKenzie but all the other Senators who were concerned about the need for the special majority. I have tried to deal with those clauses, as I said earlier, that seem to have raised the concern of the special majority, if not, by protection of existing law but also to show that section 4 would provide that particular protection. In other words, I am saying there is no need for a special majority.

I think it was Sen. Daly—I stand corrected, I am not sure—and some other Senators, who were concerned about clause 75(4) of the Bill, and at the end of page 111 what seem to be the words of concern that the particular publication of the notice referred to in subclause (3), the provisions of any written law "...shall forthwith cease to have effect." The concern was: How can one say in a Bill that will eventually become an Act, that you are going to have legislation that is in existence ceasing to have effect? There was concern over those words, "forthwith cease to have effect."

Resort was had to section 28 of the Interpretation Act of Trinidad and Tobago, Chap. 3:01. According to section 28:

"Where in a written law it is declared that the whole or part of any written law is to cease to have effect, the latter written law shall be deemed to have been repealed to the extent to which it is so declared to cease to have effect."

Why then do we need to have the particular clause? We need the particular clause 75, because until this Bill becomes law, certain procedures are going to be in operation, and the clause itself is meant to expedite the planning process.

The development control committee to which the clause applies will consist of representatives of all agencies who normally would have an input in the planning decisions. That particular phraseology has been used so that when this Bill becomes an Act and subsequently becomes the law of Trinidad and Tobago, the procedure that would have been taking place will come to an end so that this Act and its procedure can, in fact, "kick in" so to speak. If we do not have such a clause, it means that we run the risk of having uncertainty in the law and inherent

conflict. Therefore, you need to have a stoppage of what would be the procedure operating now, and then a beginning of the procedure which is meant to be the easier procedure provided for in the Bill.

Mr. Vice-President, great concern was raised about the power of the Minister. There have been so many comments and articles about the power of the Minister. One of the clauses of greatest concern is clause 4(3) which says:

“4(3) Nothing in this section shall be construed... upon the Minister, directly or indirectly, any form of duty or liability enforceable...before any Court.”

2.30 p.m.

I know that hon. Senators got the proposed amendments of the Government late in the day. I was speaking to Sen. Mary King and she indicated that she got her copy when she was making her contribution. Some of what Sen. King has suggested has been referred to in the Government's proposed amendments.

In subclause 4(3), the concern was that the Minister was getting this protection that was not deserved. If one were to look at the proposed amendments that are being offered by the Government, one will see that there is a proposed amendment to delete completely subclause 4(3).

I want, in fairness to those who are drafting, to give the explanation that was proffered. One does not want to be misinterpreted as a government that put in what was held out by others to be a draconian clause and when the red flag was waved quickly took it away. That is not the case. The explanation given was that if one looks at subclause 4(1), the Minister is given the responsibility for securing the object set out in clause 3 of the Bill for the due administration of the Act. What subclause (3) was meant to do was to ensure that if a minister did not secure the carrying out of the stated objects in clause 3, he would not carry that liability. Remember what clause 3 did was state the general objects and aims of the Bill.

Subclause (3), therefore, was meant to ensure that if there was a minister, who for some reason—lack of resources or whatever the reason—could not do what was imposed on him to do in subclause (1), he then would automatically have to face some sort of retribution or action.

Again, I want to indicate that the Government is proposing and agreeing with those Senators who said to delete the subclause, but let it just be stated that even if the subclause were to stay, it would not deprive anybody who felt aggrieved, from taking action by way of judicial review. In other words, even with the subclause,

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it was never the intention to give any excessive power to the Minister in terms of protection and, in any event, it would not have deprived any person from taking the appropriate action. The proposed amendment is to remove it.

There is concern over subclause 48(7), whereby it is stated that:

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

There is a concern that the use of the word “final” means that nothing can be done to the Minister and that he is getting all these powers.

Again, that is not the intention. Not because a minister’s power is deemed to be final, it means that an aggrieved person does not have any recourse. There is always recourse to the courts in terms of the correct action. There is judicial review action, but because it raises concerns and, in an abundance of caution, the proposed amendment of the Government is to include a subclause right after subclause (7), that will read:

“Nothing in subsection (7) shall be construed as preventing any person from applying to the High Court for judicial review of a decision made by the Minister under this clause.”

I use the phrase that we often use in court, Mr. Vice-President, “in an abundance of caution”.

Then, there was a proposed amendment of Sen. Daly that dealt with clause 90 and they were very comprehensive amendments. It was in going through the Bill for what might have been the umpteenth time and, in light of the particular proposed amendments of Sen. Daly, the point was accepted as raised by Sen. Daly, that the correct authority for dealing with appeals respecting the applications for permissions and so on, was not the Environmental Commission, but in fact some other tribunal. In the proposed amendment of the Government, that tribunal will no longer be the Environmental Commission—E.C. as it is referred to throughout clause 90—but rather the Land Tribunal. That Land Tribunal is provided for by virtue of the Land Tribunal Act.

Let me hasten to add, I am taking the advice of Sen. Dr. McKenzie. The Land Tribunal Act was passed, but has it been proclaimed? I want to indicate, quite frankly, that I have been informed that the Act is yet to be proclaimed. It was supposed to have been proclaimed by March 2001. A committee was formed to deal with the implementation of certain things that had to be put in order before it was proclaimed. It is not yet proclaimed, but the committee, which has been

given the mandate to do what has to be done to get the Act in a position where it can be proclaimed, will have now to hasten the process because the Land Tribunal will be vested with this particular authority in terms of dealing with appeals.

For those Senators who would have been privy to the provisions of the Land Tribunal Act, by virtue of being in this honourable Senate and having looked at it, would know that, under the Land Tribunal Act, there is no removal of a person's right to appeal. After the Land Tribunal, in sections 13 and 14 of the Act, it is stated quite categorically there is an appeal to the Court of Appeal and from the Court of Appeal, an appeal to the Privy Council. For those persons who were concerned that it would end somewhere in Trinidad and Tobago at some tribunal, and I have no doubt, to the ultimate highest court in the country, as it stands now, that fear can now safely be put aside.

Now I come to what I think were the lighter moments in terms of going through this Bill. The lighter moments involved looking at the very comprehensive, detailed—and I do not think I have to say, but it is a fact—very accurate definition guidelines and advice given to us free of charge by Sen. Prof. Kenny. We looked at all the definitions and we accepted them.

Again, if one looks at the proposed amendments of the Government, one would see that we have accepted a very significant percentage—or fraction for those of us who have not gone metric and remain in fractions—of those amendments, suggestions and deletions to the definition section, including the definition of “fish” that seems to be giving “fish” a much higher status than it deserves, especially as they were not even given honourable mention in the Bill itself.

I also want to say to Sen. Prof. Kenny that he has often in his debates referred to the fact that we do road resurfacing in this country very wrong. I think he was so passionate and concerned that there was specific mention of it and that we got it right in clause 29(2). Sen. Prof. Kenny proposed an amendment to clause 29(2), which says:

“(b) the carrying out of works required for the maintenance or improvement of a road, within the boundaries of the road, by a highway authority, provided that the level of the road remains unchanged.”

That is meant to be a situation that will not be deemed development of land. I know what Sen. Prof. Kenny wanted, by his proposed amendment, was to ensure that, if you were going to change the level of the road, you would get the necessary permission. However, in his environmental and expertise enthusiasm,

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the suggestion—and I say that with the greatest respect to him—that what be inserted after “provided that the level of the road remains unchanged” and the suggestion to put in “excluding road level changes associated with road resurfacing” would have the opposite effect of what the hon. Senator wants.

In other words, as it is in this Bill, it is what I think he wants, which is, that the level of the road must remain unchanged if it is not to be deemed development of land. If we add what he wants, it would mean that he would be allowing that which he seems to take, and rightly so, great objection to.

Sen. Prof. Kenny: Mr. Vice-President, I thank the hon. Minister for giving way. We in the Parliament try to make the legislation fit and I simply assumed that the policy of the Government of Trinidad and Tobago is to continue, every election, raising the level of the road by 10 centimetres.

Sen. The Hon. G. Lucky: Mr. Vice-President, it is because Sen. Prof. Kenny understands that is not the intention of the Government, he will understand why we are ensuring that he does get what he has said, that is to ensure that, provided that there is no change in the level of the road, it will not be considered to be development of land. That was one of the more trivial points that we dealt with in going through the Bill.

This afternoon, Sen. Dr. McKenzie referred us to clause 38(1)(a). In that clause there are certain words that are put in brackets. They are “(whether or not it is land to which the application relates)”. The concern of Sen. Dr. McKenzie, if I understand it correctly, was: Why should one be dealing with land that is not the subject matter of the application? Something there appears to be wrong.

Mr. Vice-President: The hon. Senator’s speaking time has expired.

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Hon. L. Gillette*]

Question put and agreed to.

Sen. The Hon. G. Lucky: Mr. Vice-President, I thank all those Senators who have given me an extra 15 minutes. I know the speed with which I am speaking because it is taking up my extra 15 minutes. This Bill has to be very important because in all my contributions in this Senate, it is the first time that I have ever required an extension of time and that I am taking this Bill and my Government takes this Bill very seriously.

Reference was made to clause 38 and those particular words in brackets. I hope that I have represented the concerns of Sen. Dr. McKenzie fairly. I want to

indicate that those words in brackets are nothing new. It is contained in section 11(2)(a) of the Town and Country Planning Act. I am not telling Sen. Dr. McKenzie because it is already there she must accept that it is there. I too asked this weekend why it was in brackets and whether there was any authority for it and whether it had been the subject of judicial decision and/or in any other legislation.

Well, the good news is that it exists as section 31 of the Town and Country Planning Act, 1971 of the United Kingdom. Those particular words and that phraseology appears in this particular clause and in a case called *George Wimpey and Company Limited vs New Forest District Council and the Secretary of State for the Environment*, reported at JPL 1979 at page 314. I am not going to read the case, but I am just saying that that particular section was referred to and the words just as they appear here were dealt with.

There is nothing wrong with it. I found that I best understood it when this was told to me by the advisors. You may want, for example, to get permission to set up a gas station on property that you have lower down a road where you presently operate a gas station. If that permission is given for that piece of land that you are applying for to operate the gas station, it will be understandable that when you set up this new gas station and you operate it down the road on your parcel of land that you will be told, when you start that operation, we want you to stop the operation of the gas station that you presently have because we do not want two gas stations operating on one road. That is why it is a section that starts “regulating the development or use of any land under the control of the applicant whether or not it is land to which the application relates”. There may be instances in which, because they are giving you permission to do something in future, it is contingent on the fact that what you may be presently doing may come to an end. That is just an example I am using. I hope it is able to give some sort of light to the point that was raised by Sen. Dr. McKenzie.

There were certain issues that were raised by several Senators with respect to clause 36. This morning it was Sen. King and this afternoon, Sen. Dr. McKenzie. If the hon. Senators were to look at the Government’s proposed amendments we have sought to delete completely clause 36 because of the role that the Land Tribunal will be playing and the continued role that the Environmental Commission will be playing, but making sure that there is no conflict of duty and that there is clear demarcation.

Much has been said about this Planning and Development of Land Bill. I am happy that much has been said. When much is said, it means that we go through even more carefully and look with an even greater discerning eye at the Bill.

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I see Sen. London is here. I said something in his absence and I wish now to say it in his presence. Though we might have been accused—wrongfully so—of not being willing to listen, the fact that the Government has come with extensive proposed amendments that reflect many of the amendments of hon. Senators from the Independent and Opposition Benches, and because we have listened very carefully and recognize that what was presented might have needed clarification and fine tuning in instances, we have reflected that in the proposed amendments.

We have listened. Our Government continues to be democratic in its approach, but we have waited for a very long time to get legislation like this in order, so that we can continue doing the work of the day, which is to ensure that at all times in matters that affect all of us we operate at optimum.

I conclude by asking hon. Senators to consider what has been said in the presentation. In committee stage, I am sure we will continue, in some instances, to have disagreement. I go back to clause 23(6), which I indicated we seem to be in a situation where we have to consider what can be done, but at the end of the day I am confident that what we are asking—and I think with justifiable reason—for is support for the Planning and Development of Land Bill, 2001.

I thank you very much.

2.45 p.m.

The Minister of Integrated Planning and Development (Hon. John Humphrey): Thank you very much, Mr. Vice-President. I thank hon. Senators for their contributions and the extent of work that had to be done in order to prepare for this debate. I was not here on one occasion but I have availed myself of the *Hansard* of the contribution of hon. Sen. Joan Yuille-Williams, which I read in full. In fact, I find it is better when you read the *Hansard* than when you sit in Parliament because you usually get distracted and you do not listen to everything that is said. I certainly digested everything she contributed to the debate.

Also, Sen. Als' contribution which I thought was a very good contribution. I am sorry I missed that one. Sen. Outridge, who himself is an urban planner—I read his contribution, so I had, in fact, digested the contributions of all hon. Senators on both sides of the Senate.

Let me start with the contribution of Sen. Morean. She was the first, in fact, to elucidate the concerns that many Senators expressed. Her concerns were the development that is occurring at present without planning approvals. She expressed concerns about the environment, about enforcement provisions, particularly clause 3(c) and (d). She expressed concerns about the Magnificent

Seven—the buildings around the savannah that we call the Magnificent Seven—Stollmeyer's Castle and Mille Fleurs.

Let me advise hon. Senators that Stollmeyer's Castle has, in fact, been identified as part of the Prime Minister's office requirements. It is going to be married to the property of Whitehall and used for the Prime Minister's purposes. We cannot restore the building presently. The intention is to restore it—not to convert into offices—and utilize it until funds are allocated to enable that.

Mille Fleurs, which I think, is in a far worse state—a decision had been taken and I am not sure whether Cabinet is reconsidering that decision—to give that building to the Ministry of the Environment. Again, to restore it and put the Ministry of the Environment there. There is, perhaps, some reconsideration because I did hear something about a group of attorneys who were interested in restoring it.

Sen. Morean and other Senators also expressed a concern about how we would connect the local government authorities to the National Physical Planning Commission in a meaningful way. Quite rightly, unless the local government authorities have their resources they are not going to be able to upgrade their capability to enter into the physical-planning mainstream. We have promised, in this legislation, to assist the local government authorities to have those capabilities within a year and I am hoping that we can, in fact, deliver on that promise.

When you plan for the development of communities, the people who live in those communities are the ones who are most affected and the ones who are closest to those people are the local government representatives.

She expressed a concern about harmonizing the EMA with the National Physical Planning Commission and, in fact, that has been accomplished. A concern was raised about the existence of a memorandum of understanding entered into between the Environmental Management Authority and the interim National Physical Planning Commission. I have a copy of the memorandum. It is signed by the chairman of that interim commission and it is also signed by the Chairman of the EMA. It is really an agreement that they would coordinate their efforts to ensure that there is proper planning in the context of sustainable development and the protection of the environment. So it is a valid agreement—as any agreement between two parties—if the parties recognize its validity. These two parties did recognize the validity of the agreement and so signed.

Sen. Prof. Kenny expressed concern—and he taught us a new term, epigenetic landscape—I had never heard the term before. I appreciate that what he is talking about is sustaining what the Almighty has given us that is of such

great value in our development, and being extremely careful not to damage it. I am pretty certain everyone in this Senate supports Sen. Prof. Kenny in that.

He did suggest that we needed a special majority but I have a different position on the special majority requirement. Our Constitution at section 2 says:

“This Constitution is the Supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.”

I feel that if we do not, in fact, make any provisions in legislation that require a special majority, we preserve that. We preserve that the Constitution remains supreme and it is very easy for the courts to overturn legislation that is not consistent with the intent of the Constitution. That is why I would not want, for this Bill, a special majority. The lawyers say you do not need it for legal purposes. So I am very comfortable with the opinion of the lawyers that that special majority is not needed. I feel much safer that the basic fundamental rights as stated in our Constitution, are safeguarded with any legislation that is passed.

Sen. Prof. Kenny also argued, as did Sen. Dumas, that we need not only the physical planning aspect of development but we need, too, the socioeconomic planning and you cannot separate the two. It is like two sides of the same coin; there are distinctive sides but they belong to the same coin. In fact, the Government has initiated a very important exercise where the Prime Minister invited to Tobago some of his Ministers and representatives of the various interests in the society: religious, business, the NGOs and we did, in fact, set up what I could describe as an interim national socioeconomic planning commission that is broad-based in its representation.

We are heading in the direction of achieving planning that marries socioeconomic and physical. We are very conscious of the need to ensure that our development is, indeed, sustainable, because development can destroy what we all know is irreplaceable. Some of us have seen areas of the world where this has happened, for example, in Haiti. There is a section of Haiti where the population stripped the forest of all the timber for use as fuel. With the rains, all the topsoil has been washed away from vast areas of mountainside and there are no trees growing on those mountains. There is no hope of ever restoring forest growth because there is no soil to accommodate the new growth.

We have to avoid that sort of thing. The Northern Range is a treasure and I think it was Sen. Rev. Teelucksingh, who specifically mentioned the need to protect and preserve the Northern Range and I agree with that completely. In fact, when we did our visioning exercise, which was necessary for us to develop a conceptual plan—eventually the development will follow—we identified certain

areas of the country both Trinidad and Tobago that must be safeguarded and preserved for all time and the Northern Range is one of those areas. I might add that the Nariva Swamp is one of them; the Caroni Swamp is another one, and so on.

The North Coast, particularly, is extremely valuable to the citizens of this country, as is the East Coast because that is where we go for our recreation: we take our families for sea baths and spend weekends and so on. We are very conscious of these things. One of the questions asked by Sen. Prof. Kenny is the problem of unauthorized development and legislation or lack of enforcement. He mentioned Lady Young Road and the development occurring off that road with driveways leading to squatting houses. That is a concern to anyone who drives on that road. That is something that has to be dealt with.

I did say at one time that 80 per cent of developments in this country is unauthorized, but that is all development that has occurred from the inception of developing in Trinidad and Tobago. It is not that all developments occurred in one regime or another. It is about 80 per cent that does not have planning permission. That is extremely important if we are going to rely on the Land Acquisition Act. There is provision in the Act that if you do not have planning permission for improvements that you have made to the land, you will not be compensated for those improvements.

I initiated in the last term—and we are going to have to revive it—a move to regularize all developments and to grant a blanket permission for all citizens who have, in fact, expended their resources in developing land. One of the benefits that would come from that is, perhaps, not immediately measurable. If you do not have title to property you cannot go to the bank to get credit. If you do not have permission for what you have done on your property, the bank is not going to take you on. They want to see the approval from the authority of Government. It means, therefore, perhaps billions of dollars of capital would be sterilized. If, on the other hand, you give that blanket approval, all property owners could then capitalize on the full value of their property and get credit to be able to do productive activity. So that is something we are taking very seriously.

3.00 p.m.

On the constitutional rights raised by Sen. Prof. Kenny, I remember that before Justice Deyalsingh a matter was determined between Prakash Singh and the Attorney General. Prakash Singh was a constituent of mine; living on a parcel of land adjacent to the Churchill Roosevelt Highway and the government at the time broke down his house. I warned them that, “If you come into St. Augustine

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and you break a single house, you will have to break me.” So they came and they broke down Prakash Singh’s house. I went immediately and rallied people to rebuild it and we rebuilt the house. Then I established my constituency office in the house and put up a banner that was as big as the house, advertising it was my constituency office. Then I employed senior counsel and we took the matter to the High Court, under the Constitution.

While the matter was pending in the High Court for determination, the government came and broke it again. Now, the government offended the law in two ways. First of all, they did not take the trouble to discover that Prakash Singh was not a squatter. Prakash Singh was a tenant, a legal, bona fide tenant, and then they did not allow Prakash Singh as a citizen of this country to enjoy his constitutional rights. So what I interpreted at that time was that that government was not prepared to govern in accordance with the law, and that is a dictatorial government. Any government that disregards the constitutional rights of citizens and uses the coercive machinery of the State to resolve any kind of conflict is a dictatorial government.

By fighting that in the court, we got a judgment from Justice Deyalsingh that is a milestone. It established not only the right of a tenant but it also established the right of a squatter because, until then, squatters were seen as lawbreakers. With that judgment we also established that squatters have the right of ownership of their home and the enjoyment of that property without losing that, except by due process of law. You cannot come in the dead of night with a wrecker squad and with guns and dogs and break down those little houses. You must go to the magistrate, get an order, deliver the order and give the citizen an opportunity to redress the problem. So that was established; but the struggle went further.

For those who are saying that this Government wants to take poor people’s land to redistribute to rich people, what is the record? The record is that we have fought a revolution without having to destroy anything, without having to spill any blood, and we have won that revolution. This side can beat its chest proudly and say, “We were involved in that revolution for enabling little people of this country to enjoy what they never historically enjoyed, that is, land [*Desk thumping*] and to be protected by the law and not to be bullied as they were being bullied in those days.”

Now, with the environment we have taken the section out of this legislation, because the environmental commission is not required in settling any dispute that might arise out of the planning and development of land. There is a land tribunal that will come into effect and, of course, the Environmental Management Act is

applicable. Nothing in this Bill will cancel it. In fact, two members of the commission are from the EMA.

Now, Sen. Dr. Jones-Kernahan—a most interesting argument about the origin of private property; but I want to suggest to Sen. Dr. Jones-Kernahan that the origin of the concept of private property—because it is a notion, it is a concept, it is not a reality—must have happened when some guy one day was sitting hitting one stone against another and he must have cut his hand and found that, by chipping stone in a certain way, you create a sharp instrument. It must have happened that way because, even today, societies that live in a natural context with nature do not know about property. They do not know about it. So we started that process and it came out of greed because that “fella”, when he realized he had something that could get the meat more easily, held it back and said, “Look, I want more of the meat for me and my family.”

That was the origin of that notion, greed, and today’s society is based on that. Today’s society is not based on satisfying the needs of its members. The whole capitalist system works by satisfying the greed of those who have property and who have the ability to acquire more. So do not come, certainly to this Minister, and say he wants to take poor people’s land to redistribute to the rich. That is an insult to me and to the Government that I am very proud to serve.

Sen. Christine Kangaloo—concerned, as most were, with clause 23(5), but we are addressing that. Development lands must be approved by Parliament. So this is my response to the hon. Senator. A development plan must be approved by Parliament. It is not, therefore, an executive plan. The plan has to be brought for final approval to Parliament. If Parliament does not approve it, it cannot then guide the development process. Now, we have something called a national physical development plan. How many hon. Senators have seen it? It is dated. It is in two volumes and, quite frankly, it is not even a plan. It is a proposal of how you could adopt strategies for development, and there are three core proposals within what is described as the development plan.

Now, as an architect, I can tell you that if you come to me with three plans to build your house, I am going to tell you straight out, “I cannot build it for you.” If, however, you consolidate into one plan, we can deliver the house. The same thing applies in national development. You must hone in on a strategy. You must take a decision, “We want a particular road built to connect A to B”, and set about to do that. You cannot keep talking about, “Oh, you could go via C and D”, and forever be stuck with intellectual proposition. So, that answers Sen. Kangaloo.

Now, Sen. Daly—I can understand why Sen. Daly is so meticulous about legal drafting, because he is obviously a very competent legal draftsman; no question about it. He can read what the lawyers have written in legalese, which the rest of us have to read many times over before we understand it. He can understand it straight off. That is why he can always contribute to improving the legalese that goes with all legislation. I think we have addressed the valid concerns that he had expressed, and, in fact, was supported by all Senators on that side and also on this side.

On the question of the role of the National Physical Planning Commission vis-a-vis the EMA, you cannot have a one-stop shop for doing development planning and for approving plans for development if you have two separate planning authorities. The EMA was never viewed as a planning authority. It was viewed as an authority to protect the environment and to ensure that development did not offend the environment but not to plan the development. So what we have done is created the one-stop shop and we have established a working link between the National Physical Planning Commission and the Environmental Management Authority.

Sen. Rev. Daniel Teelucksingh—I did touch on the issue of the Northern Range. I am sure all of us agree, when the dry season comes and we see the smoke, we are all very concerned, but it is not easy in a tropical country that has a dry season that goes for five or six months to prevent fires in the forest. It is easier if trees are there undisturbed to reduce the event of forest fire. However, if you notice, on the Northern Range, those areas that had been burnt out, there are no trees, there is a grass, and in the dry season the grass dries out and even a piece of broken glass will set up combustion and it will burn right through. Each time it happens it takes a little more of the forest, and I agree entirely that we should do something about that. However, that is not an easy thing to resolve, especially when some citizens do not care and they go into the forest, cut the trees and seek to plant ground provision and plant, of course, other things as well.

Now, all lands, not only lands of the State—for example, the forest reserve is protected as a forest reserve, but even private lands owned by citizens in the Northern Range, as in other parts of the country, are covered by this legislation. So it gives us a more effective tool to ensure, in fact, that abuse does not take place.

Sen. Dumas had touched on the question that you have raised with the need for socio-economic planning to be linked with physical planning. He made mention of the Bill violating the authority of Cabinet, but in legislation where you

When you speak of a minister, you actually speak of the Cabinet, not an individual minister, because the principle under the British system is collective responsibility. So where you read “Minister”, you could easily read “Cabinet”.

In fact, you will notice that the amendments that have been tabled today have taken a little while and Sen. Lucky mentioned, but only in passing, that weekends were spent going through the contributions, going through all the written proposed amendments and finally coming to this position. It is a standing committee of Cabinet that had to go through this before we could bring it back to the Senate because the Prime Minister made it clear that amendments to legislation that has been approved by Cabinet, that comes to the Parliament, must come back to Cabinet for final approval. So it takes a little while to achieve those things, but that has been done.

I was going to say that the Planning and Development of Land Bill certainly takes into account the relationship between socio-economic and physical planning. As an architect, when I design a house or building, I just do not design it with ideas that come into my head. I design it with a design brief from my client. That design brief spells out to me what my client’s needs are, what his budget is, and I use what talent I have to try to satisfy those needs. So there is a link, always. You cannot do physical planning and development without consideration of the socio-economic factors. So that, rest assured, is not happening. Physical planning is not going off on a tangent in disregard to the needs of the population.

Sen. Roy Augustus, thank you for the compliments because you do not get too many of those, especially these days. So whenever we do get them we appreciate it very much indeed. [*Desk thumping*] He focused on land for the poor that should be used for housing, for sport, for education, for all social purposes, and I thought Sen. Augustus’ contribution to be excellent.

Sen. Prof. Ramchand, now I do not know why he chose the words because he is an expert in the language, the English language, but he described this Bill as being a three-pronged assault on the people of Trinidad and Tobago. What are the prongs? One was the EMA overlap; two, the power of the Minister and, three, acquisition provisions. He asked, “What does the Bill offer the ordinary people?” He answered his own question, “Nothing.” “What does it take from the ordinary people?” He answered himself and said, “Everything.” Well I think that might be good for your English class at university, and I dare say you did treat us to a lecture in English literature in your contribution, through you, hon. Vice-

President, and it was indeed a very enjoyable class. I am sure the hon. Professor's students do enjoy his classes, but it missed the target.

This Bill [*Desk thumping*] was not an assault on the little people of this country. Now, the opinion has been expressed by the hon. Minister in the Office of the Attorney General and Ministry of Legal Affairs that that is, in fact, the opinion of that division including, of course, the Attorney General. Now, the Government has been mandated to establish a one-stop shop in the process because, as I put on record, we went to the population in 1995 with a specific proposal on organizing physical planning and we promised the establishment of a one-stop shop, but we talked not only about development control.

The existing Town and Country Planning Division, although there are some very competent people there who would love to be more proactive in the planning process, has been relegated to development control. There are a lot of very unhappy people working in that division. It is understaffed, they are overworked and they do not get down to doing proactive planning. So what I sought to do was to create the commission that would be responsible not only for development control but that would aid the citizen in the development process by producing a comprehensive national physical development plan and by using that plan to guide the whole process of development.

Where a developer wants to invest a sizeable sum of money in developing a piece of land that he may own or in which he may be interested, he need not go and expend a fortune and then come to the government to be told, no. He can come initially, when he has the first idea, sit with our planners and discuss it, look at the national plan and consider his project in the context of the national plan. Then the division, the commission, will go through the process with him and, by the time he has paid the money to all the professionals—and, let us face it, professionals are at least 10 to 15 per cent of the cost of any development project—the architects, the engineers, the urban planners, the land surveyors and so on—when he spends that money he knows it is readily approvable because it has been developed in consultation with the authority and that is the principle.

The other thing is, to guide development you need standards. Let me just give you one example. We have had a tremendous controversy raging with the technicians of the Government on what standards should be adopted for the interchange at the Uriah Butler/Churchill Roosevelt intersection, and some argue that we should stick to the British standard. The British standard for bridges was developed for war and there is something called a Sherman tank that weighs seven tonnes. The design of the bridges in Britain was to accommodate moving

all the Sherman tanks to the east coast to shoot the Germans when they crossed the Channel back in 1939 to 1945 and each laying of the bridge must accommodate a convoy of Sherman tanks. Well, I cannot think of whom we are going to declare war against, or, if we do declare war, whether we want to go to Sherman tanks.

Do you know what some of the experts did? They said, “What is equivalent to the weight of a Sherman tank and that uses the roads of our country?” They said, “Yes, a fully loaded concrete truck can weigh up to seven tonnes. So let us design our bridges to accommodate, on each lane, a convoy of fully loaded concrete trucks and adopt that as our standard.”

3.20 p.m.

If we did that, the bridges would cost a hundred per cent more than they should, so you build half the number of bridges that your funds will enable. So we had a big argument and it was decided that we would adopt the North American and European standard. Not the British. In fact, in North America, more bridges, longer spans are built than anywhere else in the world, and we have not seen any of them collapse under load. So we will save a lot of the taxpayers' dollars by going to that. So one of the roles of the commission is a code of standards, and the commission is all disciplined. So, the code will impact on all disciplines in development. Now, who could object to that?

Sen. Daniel—I want to thank him for recognizing the validity of the one-stop shop, because that is the key to this. That is the key to the legislation that we are trying to pass here today. That we pull all the agencies of the state that in any way can negatively impact on the development process by saying no to the developer. We pull them together.

We bring the Trinidad and Tobago Electricity Commission (T&TEC) for electricity. We bring the Water and Sewerage Authority (WASA) for water and for wastewater treatment. We bring the Highways Division for roads, and the Drainage Division for drains. We bring all the interests that impact in one way or another with the physical development process into one commission, so that the developer does not have to run the gauntlet from agency to agency to agency. That is the idea.

I did a design as an architect some years ago, and it took me five years to get planning permission, and I did in every detail, the drawings for my client, including the structural drawings. After five years, my client said, “I am not interested anymore”, and he sold the land. I did not get paid a cent, even though I had done all the work.

I am motivated to ensure that that does not happen to other people. It is not going to happen to me again, because I have reached the age of retirement. It does not look as though I will ever practise my architecture for fees, that is, so it will not happen to me again. I will contribute whatever talent I have to the benefit of the country through helping in the design process, as I am doing right now. So Sen. Daniel, thank you very much.

You wanted however, representation from the small interests. For example, you said small farmers, local government officials, and I think we have provided for that kind of representation. And you also expressed concern with—

Sen. Thomas: Mr. Vice-President, I do not want to disturb the hon. Minister, but may I ask, who is Sen. Daniel?

Mr. Vice-President: I think he is referring to Daniel Teelucksingh, Sir.

Hon. Senators: No. [*Laughter*]

Mr. Vice-President: Which Daniel are you referring to, Sir?

Hon. J. Humphrey: My apologies, Sir. It was Sen. Thomas's contribution. I know Sen. Thomas was, in fact, in the public system, but in the foreign affairs area. Is that correct?

Sen. Thomas: Yes.

Hon. J. Humphrey: I am very sorry.

Sen. Prof. Ramchand: I think Sen. Thomas has doubts about daring to be a Daniel. [*Laughter*]

Hon. J. Humphrey: My apologies. The other thing he expressed concern about, that is Sen. Thomas, is the lack of the interrelationships of the various divisions of the one-stop shop. I agree that that is something to be very concerned about, because I can give an example. If a member from T&TEC attends one meeting of the Commission and he looks at the development plan that is going to require high tension wires to bring the electricity to a location, and he goes back to his commission—that is T&TEC—and he says, “Look, the commission has met, we have considered this.”

Now the engineers would start to look at their future planning to make plans for electricity. Then the following meeting, nobody comes from T&TEC, and for several meetings, the representatives do not come. You know what happens? They lose the link and, perhaps, others will go ahead and do the planning. Then

when we find the development is about to start, we do not have electricity. That is the sort of thing we are very conscious of, and the Commission has to be very, very careful to ensure that all of its members are kept up-to-date on every decision that is taken in terms of development. So, I appreciate Sen. Thomas's contribution. Thank you very much. I would not make that mistake again.

Now, we on this side have been subject to a continuing assault on some of the things that we have done, as a government, that were not done before. And even during this debate, we heard mention of it, both in contributions and in asides. The airport project. Subject of tremendous condemnation and criticism.

Sen. Prof. Deosaran: I am sorry to interrupt, very much so, and it is embarrassing for me to raise the point, but I wonder if the Minister could remember my contribution. There are three points that I raised. I would be happy for a response on the matter of undue political interference in development programmes; and there are two other points, if you have them down in your notes, perhaps.

And the question of squatting which I think still has some illegal aspects to it, and there should be a better balancing of rights, especially where I have explained that there are severe criminogenic circumstances that get planted in squatting communities. I think those are very fundamental issues, and I will be happy if, perhaps, you can spare me the opportunity to listen—

Hon. J. Humphrey: Mr. Vice-President, I am not an expert in criminology. But the Senator is. Poverty, I agree, will breed discontent, and the intention of the Government is to end poverty. The reason we are regularizing squatter communities is because there are so many squatting families in the country. And you know, it is actually 50,000 families; half of which are on state lands, the other half on privately owned land.

We are even trying to assist the private landowners in regularizing. I have suggested that one way of doing it is to do a land exchange. The state owns half the land area of the country. We could offer to the private landowner a piece of land that is undisturbed, that he could develop without hindrance, in exchange for the land that is squatted, and the State could then regularize those squatters.

What you will find if you visit some of the squatting areas is that even though these in the main are poor and humble people, they have good planning sense. They layout their developments in a way that you can have room for a road, room for improving the drainage, you can bring in the water and you can bring in the

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electricity. In fact, some of them are very greedy and they take a little more than the 5,000 square feet that we advocate. [*Interruption*]

Land is a source of a lot of islands all over the world and historically. We know that. So we are trying to address that. Not only are we trying to help little people acquire title to their properties. Let us face it. The State is the people collectivized. That is what the State is. It is not an institution that is separate and distinct from the people. So, the way I look at it, they are enjoying part of their own property, and what we need to do is regularize it legally so that they can, in fact, improve it and feel that sense of security.

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Minister has expired.

Motion made, That the hon. Minister's speaking time be extended by 15 minutes. [*Hon. L. Gillette*]

Question put and agreed to.

Hon. J. Humphrey: I want to thank hon. Senators for that additional time. I will try my best not to use it all. What we have also put in place for those little people is a system of borrowing for improving their homes. Once they get the title, they can then go with collateral to the lending agencies, and we have put a system in place where the Minister of Finance subsidizes the interest to the extent where a poor person can borrow \$10,000 at the present time. There is no interest. For \$20,000, 1 per cent. For \$30,000, 2 per cent, and each additional increment of \$10,000 is an additional unit of interest, until you reach the subsidized level that everybody enjoys up to the \$350,000 value.

So that, once it is implemented, it will enable not only the little people to get title to their land, but they can get the money that they need to improve their homes. It is amazing how far \$10,000 will go in the hands of a poor family whose neighbours, family and friends come to assist them. All they need to buy is the hardware, and in many cases, they get liberal discounts from the hardware merchant. So it is amazing how far \$10,000 will go toward improving a house.

So that is in place as well, but it has not yet been implemented, because until we can give the security of tenure, they cannot go to the bank and borrow, because the bank has to hold, as security, their property. But we are addressing that.

I was talking about the airport. A lot of noise is being heard in and out of Parliament about the cost of the airport; TT \$1.6 billion. I can assure hon. Senators that the square foot cost of that terminal building is the lowest of any international

airport built anywhere in the world, but I want to refer to the contribution of Sen. Outridge. I quote a paragraph of his contribution:

“Mr. President, under the Government to Government arrangement, corruption became rampant. We remember huge physical structures being hastily negotiated on the basis of Government to Government contracts. Remember, Mr. President, the Mount Hope Medical Sciences Complex starting at \$466 million, finishing at over \$800 million. Remember the Financial Complex starting at \$185 million, finishing at over \$880 million? Remember the Hall of Justice starting at \$300 million, finishing at \$600 million. Mr. President, that cost the people of this country to suffer through a recession in repaying these substantial debts.”

Now I did a little mathematics. Those projects that Sen. Outridge mentioned were executed some 20 years ago. I asked the Minister of Finance what money that was spent then would be worth now. He said I could safely assume a minimum of 100 per cent in escalation.

I added up these three projects undertaken in the late 70s, early 80s. And the total sum of \$2,280 million is the total of those three projects, but the budgeted sum for the three projects was \$951 million. The cost overrun amounted to \$1.329 billion—cost overrun—and they are condemning an airport project that cost in total, \$1.6 billion. If you look at these sums at today's value and multiply that by two, you will find that the cost overrun would amount to \$2.65 billion today.

I was always taught by my mother and my father that those who live in glass houses do not throw stones. [*Desk thumping*] I want to give some advice to the members of the Opposition, especially. These projects, as many others, were undertaken by their party in government. Do not talk about an airport that is the finest in the Caribbean, where money was spent not only on the terminal building which is brilliantly designed. It is designed so that it can grow without interfering with the use of it. You do not have to walk through scaffolding later on when it starts to grow and expand. Brilliantly designed!

A lot of the budget went into airport general improvement. The infrastructure that was required, the concrete aprons, improvement of the runway, the fast speed taxiway—planes do not have to turn around and go back down, blocking the runway for other planes. As they land, they can come off the runway right away. A lot of the money was spent there. A lot of the money was spent in the drainage, because you cannot have a plane coming down to land with two inches of water on the runway. So they had to drain the thing quickly. Money was spent there.

I want to recommend that any critic of that project, go and visit it and see what we have and compare that with what we had in the past. And stop throwing stones, because you are vulnerable. Those of you who criticize and condemn, describing that project as a cowshed. My God. Who would go there and describe that terminal building as a cowshed? That is now on the *Hansard* of Parliament. A Member of Parliament describing it in that way! Not in the Senate. The other place.

Sen. Morean: Mr. Vice-President, just a point of clarification from the hon. Minister. I wanted to do so before he wound up his presentation. Two questions. What is the legal status of the interim planning commission? And the second point on which I need some clarification is in respect of the Stollmeyer's Castle. Was that listed as one of the buildings of national historic or architectural interest under the provisions of the National Trust of Trinidad and Tobago?

Hon. J. Humphrey: To answer the last one first, yes. Stollmeyer's Castle, as all the magnificent seven, is listed. Definitely. Now, the question of the legality of the interim National Physical Planning Commission, it has no *de jure* legality.

Sen. Daly: It is illegal.

Hon. J. Humphrey: It has de facto legality! You see. There were two ways we could have done this thing. [*Laughter*] Thinking like a lawyer. I forgive him, because he is one. [*Laughter*] We could have come to Parliament, Mr. Vice-President, passed the legislation and then start to put things in place and some five, six or seven years down the road, perhaps, one would have seen a functioning commission. We did it the other way. We put an interim commission in place that has done all the work that one would expect of this legal planning commission, which has done a tremendous amount of the work. In fact, a lot of the volumes on standards have been completed, and they are working on others.

So, when this passes into law, it will be a matter of weeks before that commission is up and running. It will be functioning. We have had a chance to judge those who have made contributions. They have worked exceptionally hard. I certainly will recommend that the interim commission members be accepted by the Cabinet of Trinidad and Tobago as the members of the commission. So, I do not know if that satisfies Sen. Morean.

Sen. Morean: It answers the question de facto. [*Laughter*]

3.40 p.m.

Sen. Yuille-Williams: I want to ask something about the local authority, I did not hear you mention anything. There was a lot of confusion as to the power of

the local authority whether there was not some overlapping, whether Act 21 of 1990 was amended or anything. I would like to ask about that Planning Commission which you had inside of that.

Hon. J. Humphrey: I did, in fact mention it. Unless the local authorities have the resources to employ the technically competent people to even understand plans that may be evolving, then they cannot play a very important role. That is why we have given a year for the commission to ensure that the local authorities are put in a position to enjoy that competence. However, I think it was Sen. Dr. McKenzie who said if the Minister of Finance does not release the funds, then the local authorities cannot achieve that objective, so we all pray that the Minister of Finance will in fact, support the commission and enable us to put physical planning closer to the people of Trinidad and Tobago to make it more meaningful to everyone so we will enjoy orderly development.

Sen. Prof. Ramchand: Mr. Vice-President, just a matter of clarification and perhaps the Minister would enlighten me if I am wrong. As far as I know, as a member of the National Trust, we have not been able to list any buildings so I want to know who has listed Stollmeyer's Castle.

Hon. J. Humphrey: I have. I do not know if we could have an exchange, but why has the National Trust not been able to list? Mr. Vice-President, would you permit such an exchange? Maybe I could help remedy a problem.

Sen. Prof. Ramchand: The National Trust has not had an office, it has not had staff, or any funding whatsoever. Our budget has not been approved and we had spent the year marking time and only very recently, because of the generosity of the Minister of Finance, we were able to secure a virement from another ministry. We have not received that money as yet, but we are only just about to get some money to get on with the work.

Sen. Daly: De facto.

Hon. J. Humphrey: Anyway, de facto is much more important than de jure.

Mr. Vice-President: Hon. Minister, you have about three more minutes.

Hon. J. Humphrey: Mr. Vice-President, I was just going to say, I beg to move, but if any other Senator wants to intervene I would not move yet.

Sen. Yuille-Williams: Is there any comment in this Bill as far as the Seabed Authority is concerned, as far as you extend authority over the sea jurisdiction?

Hon. J. Humphrey: That was a proposal that I think came from Sen. Yuille-Williams. The question of separating the land authority from the marine authority, but there will be no advantage in doing that.

Sen. Yuille-Williams: Therefore, you are saying that this Bill also includes the marine authority? Because we heard differently this morning in the Parliament that this does not cover that area; that is why I asked you. I wanted you to tell me that because I thought I had good advice that this also had jurisdiction over that area.

Hon. J. Humphrey: Yes, you are quite right, it does.

Sen. Yuille-Williams: I think you need to tell the Senator behind there.

Hon. J. Humphrey: In fact, in anticipation of this, we have another de facto group that is not de jure. It is called the West Coast Master Planning Committee that exists. I do not know if any of you look at what is going on with the coast, especially if you go west. People are just reclaiming at will and we, in fact, put that authority—it is not an authority; it is a committee. It does not have de jure power, but it had the de facto power to pull the resources required to do all the detailed surveying and to establish a line up to which people can develop and that is being done and accepted by Cabinet. Legally, it will stand because the Director of Surveys was involved in the committee, so you now have a survey plan indicating the new coastline.

Sen. Prof. Ramchand: Mr. Vice-President, before the hon. Minister begs to move, I think, for the purposes of the record, the statement that those seven buildings have been listed, I feel that statement should be withdrawn.

Hon. J. Humphrey: All right, I will withdraw the statement that they have been listed and say that they should be.

Mr. Vice-President: Your time is up, Sir, so if you could wind up.

Hon. J. Humphrey: Mr. Vice-President, it is only going to take a minute.

Sen. Dumas: Mr. Vice-President, my question is, have there been any specific recommendations as to what is the administrative framework that you would recommend to the local bodies or to the Tobago House of Assembly in terms of putting in place the capacity for doing the work that you were going to impose on them if this Bill is passed?

Hon. J. Humphrey: Well, where the Tobago House of Assembly is concerned, we have had, again, a de facto working relationship and it has worked exceptionally well. There is a relationship because the Tobago House of

Assembly recognizes the validity of bringing together a group of experts to do physical planning and they have had many hours of discussion. In fact, before the last Tobago House of Assembly election, I personally as Minister, saw the Tobago conceptual plan come into being through consulting with the Tobago House of Assembly behind the scenes, and we in fact, developed the plan in consultation with the people of Tobago, but I did not put my name on it, I put the Tobago House of Assembly's name on it, but at least we got it done. Again, *de facto*, not *de jure*.

Mr. Vice-President: We have to decide if you want to suspend the Standing Orders to allow extension of time, otherwise we will just continue and continue. So Senators, I think we should give the hon. Minister the opportunity to move, otherwise we would have to suspend the Standing Orders for extension of time.

If the Senate is desirous of doing so, then somebody can move a Motion that we suspend the appropriate Standing Orders insofar as time is concerned, otherwise I will have to stick to the time.

Could you now move, Sir?

Hon. J. Humphrey: Mr. Vice-President, I can assure you that at this stage of my life I would love to stop the clock. Alas, we cannot, but we are going to committee stage, so Sen. Daly, you could raise any matter at committee stage.

Sen. Daly: Thank you, Prime Minister.

Hon. J. Humphrey: Mr. Vice-President, I beg to move. [*Desk thumping*]

Mr. Vice-President: Could we have some peace in the Chamber?

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Senators, this Bill as you know, has nine parts, 107 clauses, 4 schedules and close to 120 amendments so I would like us to at least understand the task that lies ahead of us. We have to be very mindful of the possibility of being here long hours, having regard to the number of clauses that we have to address. We can be guided accordingly.

Clause 1.

Question proposed, That clause 1 stand part of the Bill.

Sen. Prof. Kenny: Mr. Chairman, looking at the other laws that we had passed over the past few years, I have noticed that we have used long titles as well as short titles. For example the Environmental Management Act has a title, the Environmental Management Act, but it does give you a long title. So does the Minerals Act that we passed. A number of these Acts have all had long titles with them especially the ones—I do not know whether it is a question of simply style. If we are going to pass law and we are using one form where you refer to the Bill or the Act as a simple title—In several of our laws you see a long title and I have had the temerity to suggest a long title which appears at the top of it which sets out what I interpret to be the purpose of this Act.

I know that when you get inside you find out the details, now if it is standard practice to have a long title, then I suggest that we do something like this and include the long title and what I propose here does spell out like the Environmental Management Authority Act says: To establish a national physical planning commission, to prepare the national physical plan, regional, municipal development plan; to develop building codes, which is admirable; to develop procedures for regulation of development; and to involve professional and citizen-based organizations in the planning and development control.

My suggestion is that to be consistent with so many other things, the National Trust, Environmental Management Act, and the Minerals Act that we have a long title as well.

Mr. Chairman: Sen. Prof. Kenny, I suggest that in accordance with the rules that we take the preamble and the long title at the end of the proceedings according to the Standing Orders.

Sen. Prof. Kenny: This is not in the preamble, this is clause 1.

Mr. Chairman: No, you are speaking about the long title as well as the preamble, not so?

Sen. Prof. Kenny: No, I am talking about clause 1. This Act may be cited as the Planning and Development of Land Act and I am questioning. I am not in the business of legal drafting, but in the other things I have seen long titles and then we refer to this as the Planning and Development of Land Act. In other words, the Act should start off with a long title; forget the preamble, start with a long title and then there should be another subclause saying, “This Act may be cited as the Planning and Development of Land Act.”

Mr. Humphrey: Mr. Chairman, I think you need a simple definition for legislation. The Planning and Development of Land is all that you need in the

short title; The Planning and Development of Land Act, 2001 because when you reach clause 3, we then spell it out. The Senator is proposing that we extend clause 1 from the short title to a long title.

4.00 p.m.

Sen. Prof. Kenny: I am just saying that we should start off by giving the Bill a proper long title. The logical thing is that it be cited as the Planning and Development of Land Act. That is all I am suggesting. Sen. Lucky, help, please.

Sen. Prof. Ramchand: I think what Sen. Prof. Kenny is saying is that at the moment we have a phrase that says “an Act relating to the Planning and Development of Land” and he is asking that we have “an Act to establish a National Physical Planning Commission” instead. Whether we call that clause 1 or the preamble we would not go into at this time. He wants to replace one item with the other.

Mr. Humphrey: The advice we have is that this is a simpler definition of the legislation, it is much easier for everyone to remember. In clause 3 the purpose of the Bill is spelt out in detail; and this is not only a Bill for establishing a National Physical Planning Commission, it is also a Bill to develop the national physical development plan. We feel it is correctly titled, an Act for the Planning and Development of Land.

Mr. Chairman: In any event, Prof. Kenny, the long title is going to be addressed at the end of the proceedings, so let us leave that until we have completed all the parts and all the clauses. That is the procedure. I want to pause at this time and we would come back to the long title at the end of the proceedings. Let us proceed.

Is there any further clarification on clause 1?

Question put and agreed to.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Chairman: We have some amendments from Sen. Prof. Kenny and the Minister.

Let us go in alphabetical order because we have many definitions and we have proposed amendments by the Minister.

Mr. Humphrey: We propose to take out the second “advertisement” and replace it with “product service Promotion.” So it would read:

“‘Advertisement’ means anything visible that is employed wholly or in part for purposes of product or service promotion, announcement, or direction and includes any hoarding or similar structure, any wall-painting and any balloon used or adapted for serving any of the said purposes;”

Mr. Chairman: This is a new definition for “advertisement”. Do we have agreement?

Question put and agreed

Mr. Chairman: The next definition is “agriculture”. Sen. Prof. Kenny, do you have something on agriculture? You said delete agriculture and its definition?

Sen. Prof. Kenny: Before we go into all of the definitions, first of all, I make the concession that many of my proposals have been accepted. That is fine. But I would like to raise the question of putting in terms, some of them that may not appear in the legislation. I understand from having read about legal drafting that if the use of the term is as used in a dictionary, there is no need to define it but you may define the term either to extend a definition or to restrict the use of a term. This is fairly straightforward. I think we do not need to go through the entire list. The Government has accepted many of them. There are minor differences.

I do have reservations about some other things. The subject of agricultural—if you look at the definition of “agriculture” in any English dictionary, a good dictionary, you would see that it is not necessary to define it here. Why are we insisting on a definition for “agriculture” and yet “forestry” is not defined?

My point is that the definition of “agriculture” is taken from the Town and Country Planning Act. They removed a couple words from the 1968 Act that uses the word “osier” which few people in Trinidad understand. So they are tidying up something that was imported. My point is “agriculture” is defined in the English dictionary so there is no need to define it in the law.

If you are going to define “agriculture” why not define “forestry”? Now “forestry” is well defined; the only word that you would not find—well I certainly cannot find it in my Concise Oxford Dictionary—is “aquaculture” hence the reason for suggesting a term that could be used. I am not making a big issue of this. It is a general thing but there are two or three terms that I would like to pursue.

Mr. Humphrey: We are, in fact, extending the dictionary meaning. At the end of the clause ancillary to farming of land to other agricultural purposes, but it does not include aquaculture. That is not to be found in the dictionary definition of “agriculture”.

We are taking out “meadow land”. That is not a term that our people are familiar with. We call it “savannah”.

Sen. Prof. Kenny: It is just like we do not recognize “lastro” and it is something that we know only too well because we are converting the country to “lastro”.

Mr. Humphrey: It is an extension, albeit a small extension of the dictionary definition. Mr. Chairman, I do not think it is controversial.

Mr. Chairman: Do you want to pursue that matter?

Mr. Humphrey: I would suggest that when we come to the “Fs” that we consider the inclusion of forest or forestry.

Sen. Prof. Kenny: I think we can speed up the process and get to the meat of the thing, if you will permit me just to refer to a couple of the terms that are not reflected in the Bill. The only difference between the Government’s proposed amendment of the definition of “environment” and the definition of the “environment” as in the Environmental Management Act is that the EMA has not included “plants and animals”. I cannot understand why we do not simply take the definition of the term “environment” as in the EM Act.

May I just explain that in the EM Act it is essentially this but the term “including plants and animals” is not included; and in the EM Act, “natural resources” is defined and natural resources includes plants and animals. So why are we taking a definition that is already there in the EM Act, adding something that is meaningless? Why are we doing this? Why do we not simply, as I have suggested, use the meaning of the “environment” in the EM Act? It is so simple.

Mr. Humphrey: Mr. Chairman, we can very easily do what Sen. Prof. Kenny has proposed, however, our people have advised that we repeat it.

We can take out the parenthesis, it is not a problem. But we keep the definition of “environment”, rather than say “environment” has the meaning as stated in the EM Act. Anyone who picks up this Act but does not have the EM Act will understand what is meant when you say “environment”; but we can remove “including plants and animals”.

Do I take it that everything from “agriculture” to “environment” has been accepted by hon. Senators?

Sen. Prof. Kenny: I had proposed for “building” adding a term to this. There is a developing culture of using containers. It is not only in Trinidad and Tobago. When a container comes to the end of its life, you can buy it and there is nothing than can be more disfiguring to the appearance of a built-up area than having a container planted and people living in it. I was suggesting that when you want to make regulations, you want to include shipping containers in the definition, so you can make your regulations and you may say “No, that is not allowed”.

4.10 p.m.

Mr. Humphrey: Mr. Chairman, it says:

“any structure consisting of a wall, roof and floor”

Sen. Prof. Kenny: Yes, so it includes—

Mr. Humphrey: A container has wall, roof and floor, but if you want it specifically stated I see no problem with that.

Sen. Prof. Kenny: I wanted to extend the meaning of this to include—

Mr. Humphrey: You want it to say “means any structure including shipping containers...”?

Sen. Prof. Kenny: Yes.

Mr. Humphrey: That is not a problem. It would say “any structure including shipping containers consisting of a wall, roof...”

Sen. Prof. Kenny: Yes.

Mr. Humphrey: We would have no problem with that.

Sen. Prof. Kenny: The other one I wanted to look at, if we may go ahead—

Sen. Prof. Ramchand: Mr. Chairman, there is a proposed amendment to delete clause 36. Now, clause 36 has begun rather clumsily with a definition of “development proposal”. When you delete clause 36 entirely you remove the definition of “development proposal”. I do not know if the Government feels it necessary to transfer the definition of “development proposal” from the now deleted clause 36 into clause 2. I do not know if it is felt to be necessary.

Mr. Chairman: Prof. Kenny, are you suggesting that you would be prepared to withdraw your amendments to clause 2?

Sen. Prof. Kenny: No, I assume that after we got through the Minister’s amendments my proposed amendments would be withdrawn.

Mr. Humphrey: Mr. Chairman, I am advised that that definition relates only to the clause that we are deleting. It is not repeated in any other clause. So, if we delete it we do not need to include it as a definition. It is confined to that clause only.

Mr. Chairman, if at the end we are going to put it to the vote, can we go through alphabetically?

Mr. Chairman: We were jumping. We started with “advertisement”, we agreed and then we went to “agriculture” and then we shifted to “building”. [Interruption] That is why I was asking Prof. Kenny whether he would withdraw his proposed amendments to clause 2 if the hon. Minister’s proposed amendments are accepted?

Sen. Prof. Kenny: I will not withdraw them. I think that I would accept all of the amendments, but I would like to raise the additional ones I have proposed. If I withdraw it now then some of my material would not see the light of day.

Mr. Chairman: Then, could we go to those that you would like the Minister to consider?

Sen. Prof. Kenny: A particular one is the definition of “land” because this is the Planning and Development of Land Bill. The Bill says:

“includes any building, any land underlying the territorial waters of Trinidad and Tobago, and, in relation to the acquisition of land...”

I think that if we want to use the word “land” we would want to extend the meaning of it, but we cannot extend the meaning of it by saying “any land underlying the territorial waters”. This is bad English. The English language tells you there is a seabed. There is a Seabed Authority in Jamaica. You do not talk about land under the sea, you talk about seabed as you talk about a riverbed or a lakebed. One of my proposed amendments is to make this thing more elegant, that is:

“to include any building, the seabed underlying the territorial waters of Trinidad and Tobago...”

This would be classier.

Mr. Humphrey: Mr. Chairman, it really is the same thing. [Interruption] Actually, it is more elegant in reading. I agree with the proposal.

Sen. Prof. Kenny: Thank you.

Mr. Humphrey: We accept that, Mr. Chairman.

Sen. Morean: Mr. Chairman, what is the amendment?

Mr. Chairman: If you go to the definition of “land” delete the words “any land” appearing before “underlying” and replace them with “the seabed”. It would then read:

“‘land’ includes any building, the seabed underlying...”

Mr. Humphrey: Mr. Chairman, could we go through until an hon. Senator moves an amendment at a particular point in the alphabet?

Mr. Chairman: Prof. Kenny said that he is prepared to withdraw, but there are some areas that he would like to have clarified.

Mr. Humphrey: Can we move directly to those?

Mr. Chairman: We have finished “land”. Prof. Kenny, would you like to go on?

Sen. Prof. Kenny: There are just two of them. For one of them I have actually proposed an amendment which says:

“‘restore the environment’ means restore all forms of life, and the physical conditions of the environment to their natural state as far as practicable;”

Mr. Chairman: Where are you, Prof. Kenny?

Sen. Prof. Kenny: I am on “restore the environment”. I think you were permitting me to just raise the ones I have proposals for.

Mr. Chairman: So you want the entire definition deleted? [*Interruption*] Prof. Kenny, could you read your new definition based on what you are proposing?

Sen. Prof. Kenny: It is on “restore the environment”. I was suggesting that rehabilitation of the environment and restoration of elements of the biota be consistent with the particular development. The point is if you pave, like you have paved the Queen’s Park Savannah, there is no way you can restore all forms of life, and much development actually removes any possibility of restoration. My suggestion, I hope is a little more elegant; it is “rehabilitation”. In other words, you are not restoring it. Do not fool yourself, you are not restoring, you are rehabilitating or remediating the environment—restoration of the element of the biota consistent with the particular development. In other words, you may have a range of developments—you set up a factory producing pound clay—there is no talk of restoring all forms of life or even any form of life. You may decide you are establishing a big park and there is a case where you may want to restore some elements, for example, some trees that are appropriate to the place. My

proposed definition gives more latitude. You would not be up against the wall of having to tell developers, “You have to restore all forms of life as far as possible”.

Mr. Humphrey: Prof. Kenny, have you been down to West Mall to see the new car parks that have been established with grass? Have you seen them? They have used a special concrete block where the earth fills the cores of the block and the grass grows—

Sen. Prof. Kenny: It has not been done at the Savannah.

Mr. Humphrey: No. If you are going to take a savannah, for example, and use it for car parking, you can preserve the grass so that when the cars use it, if it is wet it does not turn into mud and mess it up. You have the techniques in development that make it a win-win situation. You can achieve your objective because when the grass is grown to maturity you do not see the concrete any more, but it is there. It supports the vehicles without destroying the grass.

Sen. Prof. Kenny: My point, in making the suggestion, was really a question of putting it in a form that bears some relation to reality.

Mr. Humphrey: We do not object to your formulation. Mr. Chairman, you can include it.

Mr. Chairman: We are going along with your amendment, Prof. Kenny.

4.20 p.m.

Sen. Prof. Kenny: There is just one other proposal I have in my amendments. This is the definition of “tree”. In the definition in the Bill, “tree” includes palms, bamboos, stumps, brush wood, canes, mangroves, bushes and hedges. My suggestion after consulting with a very eminent agricultural scientist who is first of all a botanist, is that this is taken from another formal legislation. His suggestion is to delete the definition and replace with “includes any woody higher plants, palms and bamboos”.

Sen. Lucky: Sen. Prof. Kenny, I had one concern with respect to the proposed definition. I really did not know what were higher plants. I did not realize that we had strata in plants. What does it mean? One has to consider that when you come to a definition section, you want the layman to understand it. I was not sure that I understand what woody higher plants were as opposed to woody lower plants.

Sen. Prof. Kenny: To put it in layman's language, higher plants would be all the flowering plants. It would not include algae growing in a pond and ferns. In the definition it says bushes. You could talk about a bush. You could have a

higher plant which is a tiny bush whereas the definition suggested about woody higher plants are plants in which hard wood is being developed in the trunk.

In other words, a clump of zinnias or periwinkle would not be considered a tree. Marijuana would not be considered a tree. It is not woody. Mangrove is woody. It would be included. Every one of the 370 trees in our flora would be trees. I do not know why we use canes there and not bamboo. This is taken from English legislation where canes have a meaning. We are talking about bamboo. I would include bamboo as a tree because it is woody.

Mr. Humphrey: People who do terete work use natural cane material and they make baskets with it.

Sen. Prof. Kenny: Roseau would be included in the definition because the definition says woody higher plants, palms and bamboo. All your canes would come under there. Roseau is a palm.

Mr. Humphrey: I am advised that the intention is to be able to regulate clumps, bushes as well as the trees, bamboos and palms.

Sen. Prof. Kenny: Mr. Chairman, can we have an example of a clump of bushes?

Mr. Humphrey: If for example, someone abandons a piece of land in a built-up neighbourhood and you get the actual bush growing, if it reaches *latro* stage, we know what that means. At the earlier stage you get bush that is unkempt and untidy. It would harbour vermin and be a nuisance. That is the meaning to include that condition.

Sen. Prof. Kenny: I thought that the intention was for the preservation of trees in the classical sense.

Mr. Humphrey: It is also for ensuring that you have an orderly environment as well.

Sen. Prof. Kenny: Mr. Chairman, at the same time somebody has a property overgrown with bushes, that person does not need to go to the planning authority but the local health authority. Am I not right, Sen. Lucky?

Mr. Humphrey: If you do not get action, what do you do?

Sen. Lucky: At least you would have another option.

Sen. Prof. Kenny: Okay, I would not argue the point.

Mr. Humphrey: It is not hurting to include the idea of woody higher plants, if that is the scientific meaning.

Sen. Prof. Kenny: Bushes would come under higher plants. I would include them as the term woody means those that have a stem in which there is some hard wood being laid down. I thought that the intention was for preservation. I did not realize that the intention here is to have an umbrella that would include the problem of overgrown land.

Mr. Humphrey: Could we include that between “includes” and “palms”? Put tree includes woody higher plants, palms, bamboos.

That includes your proposal. It does not hurt at all. Tree includes woody higher plants and then continue as formulated.

Mr. Chairman: Any other further amendments?

Sen. Prof. Kenny: Mr. Chairman, there is only one other proposal from me. This was a proposal to add a definition for public purpose. I am prepared to listen to the arguments why we should not define what is a public purpose in this Bill, about which people are so touchy.

Sen. Lucky: If I might just indicate. Sen. Prof. Kenny, I looked at yours and compared it with some other definitions of public purposes where it was done in other legislation. I also looked at some court decisions in which they had to determine the meaning of public purposes. There was one case in which I think the point was made very strongly. I agree with what was articulated in that particular decision in which it was indicated that as far as possible, public purposes should not be something that is defined. By its terminology public purposes is very dynamic and expanding. To give a definition of public purposes now, may not necessarily mean down the road. Remember legislation, as I always say in my view, is something that we are making for now. It must be relevant now and also in the future. Therefore, as much as possible for things such as public purposes, I tend to say we should not define.

In terms of public purposes, when it is used for example in clause 23(5), which is our proposed amendment in any event, the Land Acquisition Act already has what that public purpose is. We already have a meaning that is ascribed to it. To come in this particular legislation and define it, I do not think that is a good route to define a phrase such as public purposes.

Sen. Prof. Kenny: I was not suggesting that we actually take this. I was suggesting that by making this proposal, somehow we would allay the fears of the

citizens of this country who would read the law and may have their land acquired for public purposes, some kind of statement. Does public purpose have the meaning in the common law which is evolving? I do not know.

My point is that a number of people have spoken to me about the issue. I am only reflecting what many people have raised with me. I am also reflecting my fears that here I am going to be asked to vote on a piece of legislation. We are talking about public purpose and as a citizen, I do not understand what you mean by public purpose. It may have meant one thing 20 years ago, and it may have meant something in 2000.

Mr. Humphrey: In the Land Acquisition Act it is general. The President determines for public purpose. The political directorate, the executive of the country, can in fact, in developing a plan for the development of the country, define a public purpose that is not confined to what you are proposing.

For example, you have not mentioned sewage disposal treatment. A public purpose could be development that enables the improvement of a community; it creates jobs so that citizens can earn a livelihood. It is left for the judgment of the executive.

Sen. Prof. Kenny: Fair enough, Mr. Chairman. I go along with this, but why can we not say public purpose shall have the meaning of that in the Land Acquisition Act to reassure people?

Sen. Lucky: We do say that. When public purpose is mentioned in clause 23(5), we also have a drafted proposal, it says clearly public purposes within the meaning of the Act. Reference is made to the Land Acquisition Act. You have it clearly there.

Sen. Yuille-Williams: Mr. Chairman, just for clarification. I am a private developer and I want to build 50 houses. I price houses for sale to the public. Does that qualify as public purpose?

Mr. Humphrey: Bhadase Maharaj's land in my constituency—housing was not listed as a public purpose at the time. He acquired the land which was housing land as if it were a public purpose.

Sen. Yuille-Williams: I am talking about a private developer.

Mr. Humphrey: Bhadase Sagan Maharaj was a private developer. He developed land and Dr. Williams as head of the government acquired that land as for a public purpose which was housing. At that time, housing was not considered a public purpose. The answer to your question is yes.

Sen. Yuille-Williams: I think the other way around. As a private developer, I want to build 50 houses to facilitate the public. I need to get access or anything out for my land that is somewhere else, do you consider what I have done as public purpose, and therefore, I qualify for you to get land for me to do what I want to do?

Mr. Humphrey: All land should be accessible. It is the duty of the State to ensure that the land is accessible. You are describing a legitimate development proposal. If you have land that cannot be reached, it is the duty of the State to enable the land to be reached. It says not de jure, Sen. Daly, it says de facto Minister Humphrey.

Sen. Daly: I am just an observer waiting for the vote. That is a very dangerous theory you are propounding there. I am not obliged to give anybody a right of way across my land. The State would intervene and do that? Boy oh boy! Anyway, I have a vote so it is not a problem. I turn off completely from the time you talk like that.

Mr. Humphrey: I do not think that you will find land that is privately owned in this country without some reserve to access.

Sen. Daly: If you come to insist that I give somebody the right of way, gun me down. It is as simple as that. I am listening to all of this and I am quaking in my boots that all of a sudden we have no law and we have no right. The Government could just come and say you give John a right of way.

Mr. Humphrey: You have a vote. One vote. That is your right. Nobody is going to try to take that from you.

Sen. Daly: That is all right. I know how I am going to exercise it. Because the longer you proceed with this de jure and de facto and talk this dangerous business about the Government could come and force me to give InnCogen a right of way across my land, you gun me down. It is simple.

Mr. Humphrey: Right now the Government can do that.

Sen. Daly: Gun me down.

Mr. Humphrey: Without this legislation.

Sen. Daly: I know that and that is why I am so worried.

Mr. Humphrey: I advise you not to buy land where a pipeline has to be run.

Sen. Daly: I know. Because you would gun me down.

Mr. Humphrey: Stay far from it.

Sen. Daly: Let us put that down in the record too. That is where we have reached.

Mr. Humphrey: Mr. Chairman, let us proceed.

Sen. Daly: You are saying as the de jure acting Prime Minister the Government would gun me down for right of way.

4.35 p.m.

Mr. Humphrey: I am not any acting Prime Minister. I am just a normal mortal like Sen. Daly. If on a future occasion I am acting, then you can use that line of argument.

Mr. Chairman: Sen. Prof. Kenny, are you withdrawing your amendment?

Sen. Prof. Kenny: Yes.

Mr. Chairman: Could I put the definition of public purpose? Before I put the withdrawal of your amendments, could I seek to clarify what we have agreed upon so far?

Sen. Prof. Kenny: Yes.

Mr. Chairman: First of all, the definition of the word, “building”—has the Minister agreed to what Sen. Prof. Kenny has said?

Mr. Humphrey: We are including that.

Mr. Chairman: And we have agreed to change it to land, restore the environment and an additional amendment to “tree” which includes “woody higher plants” before the word “palms”. Those are some of the changes that we have agreed upon. So what I am proposing is that before we put these amendments, including the Minister’s amendments and yours, we need to get you to withdraw yours.

Sen. Prof. Kenny: Yes, it is withdrawn. I told you.

Amendment withdrawn.

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Mr. Chairman: I think this is an appropriate time that we can suspend for tea. We will come back at around 5.10 p.m.

4.48 p.m.: *Sitting suspended.*

5.10 p.m.: *Sitting resumed.*

Clause 3.

Question proposed, That clause 3 stand part of the Bill.

Sen. Prof. Kenny: I withdraw my amendment.

Amendment withdrawn.

Mr. Humphrey: Mr. Chairman, I beg to move an amendment to clause 3 (1)(d) as follows:

“(d) to maintain and improve the quality of the physical environment, to improve the aesthetic quality of the built environment and to protect, conserve and promote the heritage of Trinidad and Tobago as manifested in both the natural and built environments;”

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Mr. Humphrey: Mr. Chairman, I beg to move an amendment to clause 4 as follows:

“4(3) Delete the sub-clause.”

Mr. Chairman: Sen. Prof. Ramchand.

Sen. Prof. Ramchand: Mr. Chairman, [*Inaudible*] one of the few non-literary amendments that I made, I see the Minister is making it also, so I withdraw mine.

Amendment withdrawn.

Mr. Chairman: Sen. Daly.

Sen. Daly: In light of the Minister’s proposal, I withdraw my amendment.

Amendment withdrawn.

Mr. Chairman: Sen. King.

Sen. King: In light of the Minister’s proposal I also withdraw mine.

Amendment withdrawn.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

5.15 p.m.

Clause 5.

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

Sen. Prof. Kenny: Mr. Chairman, there is a question of form and there is the question of substance. I will take, first of all, the question of form. In all the other legislation that I have seen related to the environment, like the Environmental Management Act, the National Trust Act, the Minerals Act, the composition of the commission or board or whatever body was set up is put into the body of the Bill. Now there must be a pressing argument for putting this into a schedule. If so, I would like to hear what these arguments are.

On the matter of substance in the composition of the board, I have made certain proposals. The first thing I would like to emphasize is that there is a profound difference between someone who is a representative of a body as opposed to someone nominated by a body. I suggest that, in the composition here, we are looking for nominations. If, for example, one is a representative of the Trinidad and Tobago Society of Planners—incidentally, you will notice that I have put the correct name. The drafters were unaware of it. I think you have corrected it. If any of us is representative of a particular body or organization, we are required, first of all, to project the views of the particular body which we represent. If we are simply nominated, we are put in there on the basis of our special skills that come from a particular discipline or area.

I would prefer to see people being nominated which would give them the freedom to be part of an executive body—because this is actually going to be an executive body. I was a little concerned with having people just representing. How can this work?

If Sen. Prof. Ramchand has to represent the University of the West Indies, he has to say what it wants. My point is that we consider the possibility of having people nominated by these respective bodies to give them the freedom of action as top people in their own disciplines.

The other point of substance is, bearing in mind that the law of the country requires that the Environmental Management Authority coordinates and oversees all the environmental legislation of the country, I propose that there ought to be a representative of the board of directors of the Environmental Management Authority on the board, as opposed to putting the CEO ex officio. In other words,

I propose that the Authority ought to have a seat on that board and to be able to vote. Ex officio is going there to listen to what the boys are doing.

The other point is that I have suggested certain changes in the ex officio members. I think that the Government has recognized this. I am suggesting that the Chief Executive Officer of Tidco, which was not in the original and so on.

The other point of substance in my proposed amendment is that, bearing in mind the sensitivity of this kind of legislation and bearing in mind the concerns expressed in here as well as outside, I would like to propose—as was suggested in other legislation—that we make provision for the appointment of the chairman of the commission, not by Cabinet per se, but by the President, after consultation with the Prime Minister and the Leader of the Opposition.

My argument is that, essentially, I would like to see a high degree of independence on the part of the chairman. Now the composition of the rest of the commission is going to be the Government's. Cabinet is going to appoint them, not nominate them. However, having a chairman who is not a part of the political process would convey to the proceeding—to me, a certain gravitas—and it would convey to the people outside, whom we serve, the feeling that the Government is listening to what they are proposing.

That is the essence of my proposed amendment. Essentially it is to bring it forward into the body of the legislation; to make certain adjustments, that is to have people nominated by these various bodies, not representative of, and to have the chairman of the commission appointed by the President after consultation with the political process; and to tidy up the composition of the ex officio members. That is essentially what my amendment proposes.

Sen. Lucky: Before the Government responds, I believe that Sen. Outridge also had a proposed amendment. Who else on the Independent Bench will be dealing with it?

Mr. Chairman: *[Inaudible]* fallen by the wayside. They have no relevance to our *[Inaudible]*

Sen. Lucky: Mr. Chairman, to answer Sen. Prof. Kenny, I will deal with the form aspect and the hon. Minister will deal with the substance. He indicated that there were two things that had him concerned with the particular clause.

To deal with the form aspect, if one were to look at the first schedule of the Town and Country Planning Act, it actually makes provision for those who would comprise the advisory town planning panel. All the regulations and rules

concerning that particular body come thereafter. In previous legislation, drafting has been a matter of style. The preference that is being followed now is that in the body of the Act, it is stated. In other words, the particular body or advisory panel is actually created in the substantive part of the Act. What is done, and it is considered to be neater, is that in the schedule one puts that those would comprise the persons for the particular panel or advisory, or for the commissioners in this case. What follows thereafter would be the rules and regulations that would govern that body. In terms of the form aspects, where you were saying to take it and put it in the body of the Act, it is really a matter of style. That is the preferred style, from a drafting perspective.

Sen. Prof. Kenny: It may be the preferred style, but what was the preferred style in the Environmental Management Act, the National Trust Act and the Minerals Act? These were all passed recently. The Town and Country Planning Act was passed in 1968.

Sen. Lucky: Sen. Prof. Kenny, by the same token, might I point out that you were able to enumerate several Acts in which it was put in the body of the Act itself. Quite recently we dealt with one—I do not know if it was the Telecommunications Authority Act—we found that it went to the schedule. I am not using the Town and Country Planning Act. I know that it is relatively old legislation. It is a matter of the preferred route. One would recognize that there are different drafters. In this instance, because one goes on to deal with so many rules and regulations that come after with respect to how the commission would operate, it is preferred to put it in a schedule.

Sen. Prof. Kenny: I will not labour the point, but the Environmental Management Act requires the establishment of the Environmental Code and the Authority is supposed to take all the environmental legislation and harmonize it into one codex—if you want to call it that—with the same form, style and so forth. Perhaps there are other laws written in other ways, but I propose this amendment largely because I want to see it fit into the Environmental Management Act and all the subsidiary legislation that the Authority is supposed to harmonize.

If this is acceptable, fine, but I am not withdrawing on the substance of the things which I proposed.

Mr. Chairman: What is the Government's position on the matter?

Mr. Humphrey: Mr. Chairman, we have corrected some of these provisions but we have not reached the first schedule yet, so we can wait until we reach the schedule to deal with that.

Mr. Chairman: Do you want to leave that until we reach the first schedule?

Sen. Prof. Kenny: It is quite true that we have not reached the first schedule, but I am proposing an amendment to clause 5.

Mr. Humphrey: The Senator is proposing that we do not have a schedule, but we have the provisions of the schedule in the body of the Act. The Government feels that the preferred format should be as is.

Sen. Prof. Kenny: Mr. Chairman, I have just learned that in the Telecommunications Act, which is something that I did not pay very much attention to, the composition of the board is in the body of the Act. I know that this now appears in the schedule, but I am proposing changing it, pulling parts of it out of the schedule and bringing it right up front. Now, the way in which you operate, it can stay in the schedule, but I am not prepared to withdraw it just like that and wait until the schedule comes up. I have talked about style and substance.

Mr. Humphrey: Really, it is six of one, half a dozen of the other that you put the commission here—

Sen. Morean: If, as I am hearing, it is six of one, half a dozen of the other, why not bring it in line with the conventional mode of drafting so that you have the composition of the board up front? What is the objection?

Sen. Daly: Can we have some example of an Act that has it in the schedule?

Mr. Humphrey: Town and Country Planning Act.

Sen. Daly: No. Recent, not that.

Mr. Humphrey: That is the Act that this is replacing.

Sen. Daly: I have not seen it, so I would just like to see an example or be told of an example, other than the Town and Country Planning Act, which is a very discredited piece of legislation—70 per cent of the buildings are illegal, de jure anyway.

Mr. Humphrey: What is the objection to having in Part III, as subclause 5(3),

“The constitution and procedure of the Commission shall be in accordance with the First Schedule.

and then turning to the schedule to get a very, very lengthy section of the Act. It has the same effect.

Sen. Daly: We know it as the norm for the constitution to be in the body of the Act. Why are we doing something that is not the norm? That is the issue. Can we see an example?

5.30 p.m.

Mr. Chairman, I have never seen it done this way.

Mr. Chairman: I do not know if there is any example forthcoming, it appears that the—

Mr. Humphrey: Mr. Chairman, the example is that the Act that this Bill replaces, it is formatted in that way.

Sen. Daly: Mr. Chairman, we have many things to vote on so let us start now.

Mr. Chairman: Okay.

Sen. Daly: Why are we doing this? It does not make sense. None of us are used to it and none of us have seen it this way. Why are we doing it this way?

Mr. Chairman: It appears to me that we would probably have to put this—

Sen. Daly: There is not one single example of this.

Mr. Humphrey: There are a number of consequences in doing this. It is going to affect other parts of the Bill and make it difficult to complete this exercise today. This is replacing the Town and Country Planning Act. That is the Act the drafters were looking at.

Sen. Morean: Mr. Chairman, remember one of the reasons we are replacing the Town and Country Planning Act is that it is so bad and outdated. Why do they persist in following and imposing provisions here that may be regarded as bad and outdated too? It is not a good reason that it is in that Act to bring it into this Act.

Mr. Chairman: It seems to me that we are deadlocked on this one.

Sen. Prof. Ramchand: Mr. Chairman, is it a fact that the schedule can be changed without coming back to Parliament?

Mr. Chairman: No, it is part of the Act.

Sen. Daly: Mr. Chairman, can we be in a deadlock if we do not have two choices? They have not offered one example other than the Act that we are replacing. This is bizarre! We are doing something bizarre, okay! When you speak politely nobody takes you on. It is bizarre because it is out of step with all other legislation that sets up commissions and bodies like this.

Sen. Als: Mr. Chairman, is it always necessary for us to be bounded by status quo with respect to the question of the interpretation of this Act? Why is it always necessary for us to be bounded by status quo? We are trying to introduce a Bill, which is going to be translated into an Act, and sometimes we have to move away from traditional methodologies. This is one of those times.

Sen. Daly: Mr. Chairman, what invariably happens when you move away from traditional methodologies with legal drafting is that you provoke litigation.

Sen. Als: That may be your point of view as a lawyer.

Sen. Daly: Oh, fine.

Sen. Als: What we are trying to do is to introduce social legislation that will be able to satisfy the needs of people, not lawyers. [*Desk thumping*]

Sen. Daly: I guess that goes down big in Toco, that kind of “rabbleship”. [*Interruption*].

Sen. Als: No, please, please, Mr. Chairman, if we allow, Sen. Daly—

Mr. Chairman: Gentlemen! Ladies! Could we have some order?

Mr. Humphrey: Mr. Chairman, this is a recommendation to put the entire Schedule, right up to 15—Is that the idea or just the composition of the commission?

Sen. Lucky: Mr. Chairman, if I might just indicate, Sen. Daly, did, in fact, ask if we were aware of any other legislation, post Town and Country Planning. Thankfully, we have the—to me it really makes no difference if we were to put it in. To answer his specific question, the last one we seem to be able to unearth—one that is on hand—is the Regional Health Authorities Act, which was in 1994. [*Interruption*] Well we were asked a question, at least we moved better than 1969. [*Interruption*] Let us look at the legislation. The question was asked; we have the Regional Health Authorities Act and the same thing was done. All I am indicating is that the reason that the drafters—I will use this phraseology—I am instructed by the drafters that the preferred route is to go by this means. I do not doubt that there might have been legislation within the recent past where it was done otherwise, but I am just saying that if it is for some reasons there will be greater comfort in bringing in—into the substantive part of the Act—the composition of the Commission, I do not really see it having any grave effect, to be quite honest.

Sen. Prof. Kenny: Mr. Chairman, we are told that this is the preferred form of the drafter, but my preferred form is to conform with what we, as Senators, have

passed in the last Parliament and to make it consistent with the EMA, and all the other environmental legislation that we are passing.

Mr. Chairman: Sen. Prof. Kenny, what I am saying is that I am not getting—the Government seems to want to proceed with this matter and I want to put—Do you want to defer this matter?

Mr. Humphrey: Mr. Chairman, if we accede to the request and we make the Schedule, subclause (3) of 5, then it achieves the objective; then you would not have a schedule, we would just have the substantive Act. It is going to be awkward, cumbersome, lengthy and much more difficult to read, on an already difficult piece of legislation.

Sen. Prof. Kenny: Mr. Chairman, my proposed amendment does not move, or propose moving the schedule into the body of the Act. If you read my amendment, I have suggested a new subclause:

“The procedures of the Commission shall be in accordance with the First Schedule.”

And you amend the Schedule. All that I am suggesting is to bring the composition of it into the body of the Act. It is only one page.

Sen. Lucky: Just for a matter of clarity, is it that—

Mr. Chairman: Do you understand what is being proposed, Mr. Humphrey? They want the composition taken out.

Mr. Humphrey: Are we going to put a complete section for the composition? The one we are taking out is 5(3).

Sen. Prof. Kenny: Yes.

Mr. Humphrey: So remove 5(3) and put in a new 6 and then renumber—

Sen. Prof. Kenny: Delete the subclause and let this be 5(3), and then:

“The Commission shall...”

Mr. Humphrey: So we take out: “The constitution and...” and leave the “The procedure...” What I am advised is that we will have to leave 5(3) but we could take out “...constitution and...” and subclause (3) would read:

“The procedure of the Commission shall be in accordance with the First Schedule.”

Then we will have to put in a clause for the composition. Should we say 5(a) and (b)? Sen. Daly, do you want to make a recommendation on how to include it as a separate clause; clause 6 and then we renumber—

Sen. Morean: Mr. Chairman, the proposed amendment by Sen. Prof. Kenny is taking care of all that.

Sen. Lucky: Yes, it does. I agree with Sen. Morean, it does. It would mean that subclause (3) would read:

“The Commission shall consist of the following members appointed in accordance with this section.”

It would be stated and then reference would have to be made to the First Schedule in terms of the procedure that would be dealt with, and that is already catered for by Sen. Prof. Kenny, where he has:

“Add a new subclause (4) with the procedures.”

Sen. Morean: So it is just to adopt his amendment.

Sen. Lucky: Sen. Prof. Kenny, there were two things, you said the “form” and the “substance”, at this point we are agreeing to the form.

Sen. Prof. Kenny: Fair enough.

Sen. Lucky: Now the Minister will deal with the substance. We have a problem with some of the form of your substance.

Mr. Humphrey: [*Inaudible*] of the construction industry where, a registered body, and not just a loose body. We could, in fact, refer to nominations but it would be extremely difficult to nominate people to represent the professions. You would have a lot of people on the commissions because each profession would have to be represented through someone nominated by their association. Now we have got the professional bodies and the contractors who belong to the Joint Consultative Council. Unfortunately, it is not a legal entity so we cannot refer to it.

Sen. Prof. Kenny: Your point is well taken.

Mr. Chairman: Could I suggest we defer clause 5(3) until we get a proper form in terms of a form as well as the substance? We are spending a lot of time on form and then we have to go into substance. We can go on. There are other matters we have to deal with this afternoon. I am suggesting we defer this matter and come back to it before the end of the proceeding.

Sen. Prof. Kenny: We have agreement on the form.

Mr. Chairman: We have agreement on the form and it is a question of the substance now.

Sen. Daly: Mr. Chairman, there are only two issues left, one is using the nomination instead of representing and the other is who should appoint the chairman. Those are the only two issues left.

Mr. Humphrey: We do not agree with the President appointing after consultation with the Prime Minister and Leader of the Opposition, the President, in this context, is the Cabinet. This is an executive decision.

We were adding, in the First Schedule and we made a couple of changes in (7). We corrected in subclause (4), the name:

“...Society of Planners of Trinidad and Tobago;”

It is the:

“Trinidad and Tobago Society of Planners;”

In subclause (7) we have suggested:

“one with professional qualifications in the discipline of socioeconomic planning;”

instead of,

“one representing the professional discipline of socioeconomic planning;”

Sen. Lucky: Mr. Chairman, we have no amendment to clause 5 but because the First Schedule would be forming part of the substantive Act, coming in as a subclause (3), we are dealing with our amendments in the First Schedule because that is the aspect that we are on right now—the composition of the commission.

Mr. Chairman, we are proposing the amendment—in the first place and I notice in Sen. Prof. Kenny's amendment: “10 other persons” should actually be—as it stands, it would be 11. In one of them that is what is numbered (v), it is two from the construction or land. So though it is listed (i) to (x) it is really 11. The Government's proposal is an addition to what was stated in the First Schedule, which would be 11. It would actually consist of 13 persons because the Government's proposal is that there should be:

“one representing small business, the informal sector and small property owners; and”

what would be (xii) is:

“an attorney-at-law of not less than five years standing.”

It was the Government's view that you would have a committee that is already stacked with so many members, and obviously there would be legal issues that one would have to determine—whether by way of interpretation or by way of action of this commission—and therefore one has to envisage that there should be an attorney-at-law on that commission giving the necessary legal advice.

We are aware that the commission would be operating with a legal officer, but we felt that that legal officer would be overwhelmed in terms of doing his or her own work and also the work of the commission. You need somebody there when the commission meets to determine legal issues, which would inevitably arise. So that is why it would be an increase from what should have been 11, although it stated 10—13.

Sen. Prof. Kenny: What about my suggestion of having a member of the board of directors of EMA, not there as ex officio but there as a voting member?

5.45 p.m.

Sen. Lucky: Sen. Prof. Kenny, is that person not already represented in what is now clause 10?

Sen. Prof. Kenny: No, not necessarily.

Sen. Lucky: Your proposed amendment is coming from the board of directors itself?

Sen. Prof. Kenny: Yes.

Sen. Lucky: I see.

Sen. Prof. Kenny: Of the EMA.

Sen. Lucky: Yes, but we have agreed with that.

Sen. Prof. Kenny: You have agreed?

Sen. Lucky: Yes, if you look at our proposed amendment:

In sub-paragraph (x), immediately after “the” in the first line, insert “Board of Directors of the”.

It is the last page of our proposed amendments. So we have agreed to that. It is your last page. Remember, you are looking under First Schedule, Sen. Morean, and it is there. So we have already agreed to that. Just to make the point, Sen. Prof. Kenny—*[Interruption]* Okay, we have agreed to it, but just to make the

point, Sen. Prof. Kenny, ex officio members, although they are called ex officio, they do have the right to vote.

Sen. Prof. Kenny: They do?

Sen. Lucky: Yes, they do.

Mr. Humphrey: The only reason they are ex officio is because they are on the Commission by virtue of the position they hold.

Sen. Lucky: If I might just use an analogy—[*Interruption*]

Sen. Prof. Kenny: They are full voting members?

Sen. Lucky: Yes. On the Judicial and Legal Service Commission, the Chief Justice is the ex officio member and in fact is the chairperson and he has a very powerful role in the JLSC, I am sure.

Mr. Humphrey: In other words, these offices have to be members of the Commission and have a representative of the office.

Sen. Prof. Kenny: I think your concession is extremely good because the board of the EMA may change from time to time, the CEO may last for a long time.

Sen. Lucky: We take your point and that is why it is reflected.

Sen. Prof. Kenny: I am sorry. We only got this, this afternoon. [*Crosstalk*]

Mr. Humphrey: What we are discussing, we had conceded to including the CEO of Tidco. I think that was Sen. Prof. Kenny's proposal.

Sen. Lucky: We are accepting it.

Mr. Humphrey: We have no problem with that. Now we have a couple of corrections to make because in the ex officio group at (iv) you have "Chief Technical Officer, Ministry of Works", which is no longer Ministry of Works. That is Infrastructure Development and Local Government and at (vi) it is no longer "Director of Economic Research and Planning", it is now Integrated Planning and Development. So we need to change that. That is (vi) of the ex officio members. The Director of Economic Research and Development, Ministry of Integrated Planning and Development. All right, what is being proposed, instead of spelling it out, at (iv) to say "the Ministry responsible for Works" and at (vi) "the Ministry responsible for Planning."

Mr. Chairman: Yes, I think Sen. Dumas would like to speak.

Sen. Dumas: Sorry, the Minister just fixed two of the things I wanted to raise. The question of the Ministry, the specific thing with Works, but I continue to have a problem with the Society of Planners of Trinidad and Tobago and the Agricultural Society of Trinidad and Tobago. Why do we want to enshrine rights for their participation in planning? What are these two bodies anyway? Why should they have particular enshrined rights in the law of Trinidad and Tobago by having representatives?

Mr. Humphrey: Well because this is where the urban planners of the country have formed an association. So you would expect that they would get a nominee from the society of planners who would be competent to speak on behalf of the urban planners who belong to that society.

Sen. Dumas: My question is, what is this society? I do not know that these—I do not know.

Mr. Humphrey: That is a legal entity. That is a registered—*[Interruption]* yes, incorporated.

Sen. Dumas: The Agricultural Society of Trinidad and Tobago?

Sen. Prof. Kenny: That is incorporated.

Sen. Dumas: Like any credit union and a number of people are incorporated. Why do we want them to have specific representation in the law?

Sen. Prof. Kenny: They are planners.

Mr. Humphrey: Well actually we have fulfilled the requirement of some of the hon. Senators by at least identifying a group that can have a nominee on the Commission and not merely a representative.

Sen. Dumas: My question is that you are giving them—*[Interruption]*

Mr. Humphrey: Because, you see, when you have a representative of planners, Cabinet appoints that representative. When you have a nominee it is the society that appoints the member.

Sen. Yuille-Williams: Mr. Chairman, just to the hon. Minister, do you think we needed anybody with maritime experience?

Sen. Als: Seamen and Waterfront?

Mr. Humphrey: But how would you describe such a nominee?

Sen. Yuille-Williams: I am only saying so because of the jurisdiction of the Bill, you know, it goes beyond just the—*[Interruption]*

Mr. Humphrey: No, but would it be, for example, someone with experience in hydrographic surveying or someone experienced in shipping? What sort of a person would you recommend?

Sen. Yuille-Williams: Probably I might not be able to identify the exact post, but I know that if this Bill extends beyond the land—*[Interruption]*

Mr. Humphrey: No, well we have standing committees. One of those committees—*[Interruption]*

Sen. Yuille-Williams: I thought—because this Bill is going to incorporate a lot of other things like that. You have mining, you have all kinds of things which this Bill is going to cover—mining and whatnot—and there is nobody at all here with any kind of experience, even to say what on the standing committees it will bring forward. I thought somewhere along the line that somebody with some kind of experience would have been absolutely—*[Interruption]*

Sen. Als: Minister, what I think perhaps they are trying to say—*[Interruption]*

Mr. Humphrey: Mr. Chairman, I think it is important to determine the discipline, because the activities that will be occurring in terms of development would be coastal but, for example, if you do a dredging programme and you are going to dump the spoils in an area of the Gulf of Paria, you definitely need expertise in determining the place to put it. If you are going to build beaches and you are going to win the sand from the ocean floor in certain areas where good sand exists, you do need expertise in that regard. In fact, it is a very, very high level of specialization. *[Crosstalk]* We are introducing a special standing committee of the Commission for coastal development. That is coming in the amendments.

Sen. Yuille-Williams: But if even you have a standing committee, I am quite sure, you know, that somebody on this—you have standing committees but there should be somebody on this main committee with their experiences, you know—I agree that you might have the standing committees but somebody should be on this particular committee who would even link with the standing committee. I think you need that experience as you go along. Probably we cannot shape exactly who that person is, but I know that there is some kind of maritime experience needed here. I am quite sure that is needed.

Mr. Humphrey: I do not have a problem with that. To me, the bigger the Commission the better.

Mr. Chairman: May I suggest for a second time that we try to defer this particular clause while you work out—because we are spending so much time on this matter and we are not going anywhere. So I am suggesting that we could defer this matter and, at the end of the proceedings, we can come back to it. Somebody will have something, you know, to do—so we can go on. [*Desk thumping*]

So could we agree that we defer clause 5 and we will come back to it a little later?

Question put and agreed to.

Clause 5 deferred.

Clause 6.

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

Mr. Chairman: We have one amendment, I think, from the Minister and one from Sen. Prof. Ramchand.

Sen. Prof. Ramchand: Mr. Chairman, I beg to move that clause 6 be amended by stating a time limit in 6(g).

I was just thinking that, although it might be felt that I think the Bill discriminates too much in favour of developers against the little man, I do think that a lengthy wait for permission would be inconvenient for developers and I wish in subclause (g) to suggest that some time limit be stated within which applications may be decided. I have said within 90 days of submission but some convenient—so I am saying, within 90 days of submission—to consider and determine within 90 days of submission all applications.

Mr. Humphrey: I do not have a problem prescribing that in the law.

Sen. Prof. Kenny: Mr. Chairman, there is merit in Sen. Prof. Ramchand's proposal and if we look at the CEC rules, which are now law, it does specify a time frame for everything. I have tried it. I have passed out that. My suggestion is that I am supporting Sen. Prof. Ramchand on the basis of the fact that the CEC rules, which are now law, specify time frames for receiving and either approving or denying. We have received them here already.

Sen. Als: Mr. Chairman, could I make a small contribution here? I think, quite frankly, that a time limit is something that we could certainly actively look at because the bureaucracy, if it is unlimited, can go on forever, whereas it forces the administration, that is the government administration, to apply a time in which

something has to be delivered. I think clearly that is one of the frustrations that the Minister himself has mentioned over the period of time for not getting things done. Therefore if, departmentally, people have a periodicity in which to deliver certification and so on, it may be an amendment that may be well worth the consideration, because this is about implementation, not serving the bureaucracy.

Mr. Humphrey: Quite frankly, I like the idea of time limits. I gave you an example of my own. For five years I could not get approval. My client deserted me. [*Crosstalk*] You have simple—simple plans do not even require an application for approval. Simple house plans, for example, get automatic approval. The other provision is that the Commission gives registered professionals its authority to approve lands. So in those cases you do not have a time problem, but I do not have a problem with putting a limit. [*Interruption*] A hundred and twenty days? Is that calendar days or do you want to say months?

Sen. Prof. Ramchand: You cannot wait too long. The rainy season might come and, if you have something you want to do, you will have to postpone for a whole year. The 90 days is a time limit with the banks and so on too, “eh”, for paying up your money and so on. If you are taking a mortgage—[*Interruption*]

Mr. Humphrey: But, you know, the principle of the one-stop shop is, in fact, to achieve that very objective. So I really see nothing wrong with putting time limits.

Sen. Als: Well, that is something we all support.

Sen. Prof. Ramchand: Ninety days. [*Crosstalk*]

Mr. Chairman: It is being proposed that—instead of 90, it is being proposed by the Government—are you hearing me?

Sen. Dr. McKenzie: Yes, yes.

Mr. Chairman: Right. It is being proposed that instead of going with the 90 days we go with 120 days.

Sen. Prof. Ramchand: That is four months, right, so if you put in the application in April, the rainy season could start and you have not got it and then you are delayed by a whole year. [*Crosstalk*] Well okay, I mean—[*Interruption*] [*Crosstalk*]

Sen. Daly: We seem to have consensus, so why are we tarrying?

Mr. Humphrey: It is being suggested that we do not put it here but we put it in clause 101, the power to make regulations, and we actually state it in the Bill.

Sen. Prof. Ramchand: I am going to call for the deletion of clause 101, so I would rather it here. [*Crosstalk*] No, I withdraw the 90 and accept the 120.

Mr. Chairman: So we have clause 6(1)(g). You only have one amendment here. Do you want to deal with clause 6(3)(f) at the same time?

Sen. Prof. Ramchand: Yes. What I thought about that is that if I had put in a proposal for a development I would not like my proposal, which is under consideration, to be publicized so other people can copycat me and so on. If I have already got permission, it is fine, but if it is under consideration, I do not want it broadcast.

Mr. Chairman: Apparently the Government has accepted that amendment. Professor, would you like to withdraw that?

Sen. Prof. Ramchand: Okay, thank you.

Amendment withdrawn.

Sen. Lucky: Mr. Chairman, I would like to make a point, please, with respect to the time frame, whether it be 90 days or 120 days. If a time frame is included but it means that if there is—because one has to consider that if after the 90 days or the 120 days the plan is not approved, or there is no approval, then there would also have to be a section dealing with a sanction because the next question is, “What happens?” I would like, Mr. Chairman, if I could ask Sen. Prof. Ramchand whether he would consider the following, please.

In clause 6(g), which is on page 31, it starts:

“to consider and determine...”

We could add the words, after the word “determine”, so it would read:

“to consider and determine within the prescribed time applications for permission...”

Then now I refer you to page 136 which is really clause 101, insert after the letter “(n)” an “(n)”. I know there is an (n) there already but that would be the last one, and (n) which would read something to the effect:

“the time for determining applications for the development of land.”

The reason is, under clause 101, the Minister is the person who has the power to make regulations and, therefore, it is not that you will not get a time frame eventually, but I think instead of us debating at this juncture the 90 days and the 120 days and then what would the sanction be, if it is put in, the Minister will be

Planning and Development of Land Bill
[SEN. THE HON. G. LUCKY]

Tuesday, July 24, 2001

mandated to have regulations and those regulations, of course, would have a time frame because you have now put it into the Bill itself.

It also means that if we go with, let us just say—if we were to go with 120 days and we could actually have made it earlier than that—because, of course, we want to get it at a faster pace—it means the regulations will give us that level of flexibility. [*Interruption*] Right, but then it would be that if you were to put a stipulated time, it would mean that if you want to come back you would have to come back to Parliament. This way I am saying the Minister has the power to make regulations. So that he would have a prescribed time and, as the administration of the exercise becomes, I would say, smoother or more efficient, then it means that the time frame would also be shorter. I just want to make the suggestion because I think it is—bearing in mind what we would have to do if we go with a time frame.

6.05 p.m.

Sen. Prof. Ramchand: I am not quarreling, because I just wanted the principle that there should be a time limit.

Sen. Lucky: Yes. I agree wholeheartedly, and I am just saying that this is one way we can do it. Okay? If the Senator would agree.

Mr. Chairman: Is it the time frame?

Sen. Lucky: No, we are not agreeing to a time frame, Mr. Chairman. We are actually agreeing to an amendment to what is clause 6(1)(g) and an amendment to clause 101 with an (n).

Sen. Prof. Ramchand: Would the (n) specify the period?

Sen. Lucky: No. The (n) would actually say, the time for determining the application, but the Minister has to prescribe this. So the Minister would have to give a time frame. But not here now.

Mr. Chairman: Are you withdrawing?

Sen. Prof. Ramchand: Yes. I will withdraw it and accept the amendment as proposed by the Minister.

Sen. Dumas: Mr. Chairman, would that proposal still hold if you are not accepting or agreeing to the concept of the negative resolution for the regulations?

Sen. Lucky: I am sorry Senator?

Sen. Dumas: You are putting that (n) in. Would you still want to propose that, if the suggestion changed from it being a negative resolution to a positive resolution?

Sen. Lucky: We are leaving it as negative resolution. Always remember, Sen. Dumas, that if it is negative resolution, and for some, negative resolution does not mean that you could never come back to Parliament. You can come by way of motion if, for some reason, you are dissatisfied with what is happening or the operation of the prescribed time. But we are saying, put it in, leave the negative resolution, but at least it will give that level of flexibility, and reality also.

I think Sen. Prof. Kenny had made the point about reality, and that is why I am concerned about putting in the time frame. Mr. Chairman, are you taking this in terms of writing?

Mr. Chairman: Yes. Which one are you dealing with now?

Sen. Lucky: Mr. Chairman, it is in clause 6(1)(g), page 31. It starts, “To consider and determine”. The amendment is as follows:

After the word “determine”, insert the words “within the prescribed time”.

And Mr. Chairman, now I will be in your hands as to whether you want me to go immediately to clause 101, or to wait until we reach there to make the particular paragraph. Could we do it at this juncture?

Sen. Prof. Ramchand: I think we should—

Mr. Chairman: No, no. We cannot deal with that. We do not operate like this. [*Laughter*] When we come to that one, we will come to a decision.

Sen. Lucky: Mr. Chairman, that is why I said I am in your hands, and I thank you. I will not be misled.

Question put and agreed to.

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

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mr. Humphrey: Mr. Chairman, I propose the following amendments to clause 7:

- A. In subclause (1)(d), immediately after the word, “manage”, insert “public”.
- B. Immediately after subclause (2), insert the following new subclause:
“(3) Where the Minister gives special or general directions, they shall be in writing and shall be on matters of policy.”

Sen. Prof. Kenny: Mr. Chairman, I will withdraw my amendment seeing that the substance of what I have asked is there, but I was wondering whether the Minister wants to not keep decisions private between the Minister and the commission. The UK legislation, when you have this kind of clause, requires gazetting of these instructions or directions given by a minister, but otherwise I agree. I withdraw mine.

Amendment withdrawn.

Sen. Thomas: Mr. Chairman, in light of the Minister's amendment, I will withdraw my amendment.

Amendment withdrawn.

Mr. Chairman: So we are going with the amendment as proposed by the hon. Minister.

Sen. Prof. Kenny: Mr. Chairman, before we move on, I did ask a question of the Minister. Would the Minister consider that in circumstances like this, the decision or the advice or the instruction given by the Minister be gazetted? It happens in UK legislation.

Mr. Chairman: Are there any other areas you want to raise on clause 7?

Mr. Humphrey: Prof. Kenny, the idea of the gazetting is to make the decision public. Is that not the idea? So it is not a private decision between Minister and the commission, but it is a decision that affects the public and it is gazetted so that the public is aware of it. I see no objection to that. If you gazette, it is published.

Sen. Prof. Kenny: Yes.

Mr. Humphrey: That is the idea. So why should anybody object to that? Well we have got to insert that, Mr. Chairman. It would be a subclause 4 and that reads:

“Directions given by the Minister shall be published in the *Gazette*.”

Sen. Prof. Kenny: Excellent!

Sen. Dr. McKenzie: Mr. Chairman, not going back, but we proposed to take out from 6(2)(f) but we should have taken out the word “or”, also. Not just “to develop land” and “under consideration”, but right down to “or”. It is just a minor thing. Just scratch it out.

Mr. Chairman: That is important.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 to 10 ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Humphrey: Mr. Chairman, I propose the following amendment to clause 11:

11(1) Immediately after paragraph (d), add the following new paragraph:

“(e) preparing plans and programmes relating to and effecting development control in coastal and near-shore areas;”

In fact, this satisfies Sen. Yuille-Williams' requirement.

Sen. Dr. McKenzie: Mr. Chairman, I still want to find out whether the standing committees or those that they will be able to delegate through—whether they will come from within the composition of the commission?

Mr. Humphrey: No. It can extend beyond the commission to bring experts from wider fields.

Sen. Dr. McKenzie: Okay.

Sen. Yuille-Williams: You are saying that is one of the functions of the commission. That is really why we need the expertise there. I agree with what you are saying that that is part of the function. That is why I say we need the expertise. You said you are coming back to that.

Mr. Humphrey: You know, the Director of Surveys, for a long time, was the only hydrographic surveyor we had, fully qualified. But what you have these days, the petroleum industry is getting expertise in areas like this. I know they are very highly technical, with satellite testing and observation, and that sort of thing. So I think we need to think of how you could describe that person. I would not have a problem at all putting an expert there.

Sen. Yuille-Williams: Thank you.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clauses 12 to 17 ordered to stand part of the Bill.

Clause 18.

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

Sen. Prof. Ramchand: Mr. Chairman, my amendments are very minor. In 18(1)(c), there is obviously a typo here. We should have said “draws together and links”. And 18(1)(d)(iii); in (i) you have a noun, in (ii) you have a noun, and (iii), therefore, requires a noun. Instead of “adopt” it should be “the adoption of strategies”. It is just to balance the thing grammatically.

Mr. Chairman: That is a typographic error. I would suggest that you withdraw it. It is a typo. We will treat it as a typo.

Sen. Prof. Ramchand: I cannot withdraw it. It has to change. If you want to say we are putting the “adoption of” instead of “adopt” is correcting a typo, I am quite happy to accept it.

Sen. Lucky: Yes. It is a typo, Mr. Chairman, but it is something that is significant enough.

Mr. Humphrey: Mr. Chairman, I propose the following amendment to clause 18(1)(a):

At the end of the paragraph, add “and environmental programmes of the Environmental Management Authority.”

6.25 p.m.

Sen. Dumas: Mr. Chairman, why are we separating the policies of the Government from the programmes of the Environmental Management Authority?

Mr. Humphrey: The Government can have environmental policies separate from the programmes of the Environmental Management Authority. So the two things are not the same. The Government can have environmental policies that are not the programmes of the Environmental Management Authority.

Question put and agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Chairman: We have some amendments from Sen. Prof. Ramchand, Sen. Daly and Sen. Prof. Deosaran.

Sen. Daly: Mr. Chairman, I have an amendment to clause 19. One of the areas of this Bill that is still causing me great concern is the fact that this commission will not have to respect decisions made under the environmental legislation. I heard the Minister say that this is a one-stop shop and you do not want to have to go to more than one person and so on, but the fact is that the Parliament has twice—it did it once and it reaffirmed it again when we repassed the Environmental Management Authority Act with a three-fifths majority.

We have placed control of the environment in the hands of the Environmental Management Authority and that has been done by two governments and, therefore, I have little difficulty in accepting anything in this Act which permits the commission to look at what the Environmental Management Authority has done, but not be bound by it. I would not deal with clause 35 now, but that informs both my amendments in clauses 19 and 35.

It is not a question of the Environmental Management Authority being some body which has to give planning permission, that is not the argument. The argument is, that we have decided twice that environmental matters are in the control of the Environmental Management Authority and, therefore, I cannot accept that this commission can look at, but not heed, or be bound by decisions of the Environmental Management Authority and, therefore, in the case of this amendment, I am proposing that they must be guided, must—they do not have a choice about being guided by what the Environmental Management Authority does. Therefore that is why I am proposing in line 4 an amendment as follows:

A development plan shall contain goals, objectives and policies established primarily to manage and guide in the social, economic and physical environment of the area for which the development plan is prepared and shall be consistent with any action taken under the Environmental Management Authority Act, 2001.

If, for example, the Environmental Management Authority has declared somewhere a sensitive area, this commission cannot say: “although the environment has been said to be a sensitive area, we are going to put down a methanol plant there,” to take a simple example. That is why I would like this

commission to be bound to act consistently with what the Environmental Management Authority does. That is the best explanation I can give. I cannot accept that they would declare somewhere a sensitive area and then the commission could say, never mind that, you can put down a methanol plant in Nariva or wherever. That is what I have to say on that and that is why I am proposing that we tie them to acting consistently with action taken under the Environmental Management Authority Act.

Mr. Chairman: Before we go any further, there is a Procedural Motion that we have to put to the Senate so I have to resume.

Senate resumed.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the conclusion of the matter now before it.

Question put and agreed to.

PLANNING AND DEVELOPMENT OF LAND BILL

Committee resumed.

Mr. Humphrey: Mr. Chairman, I am advised that what Sen. Daly is asking for does not necessarily have to be stated because the Environmental Management Act binds everyone including this commission, but if you want it stated it is not a problem.

Mr. Chairman: So can we go with it?

Mr. Humphrey: "A development plan shall contain goals, objectives and policies established primarily to manage and guide change in the social, economic and physical environment of the area for which the development plan is prepared."

Mr. Chairman: Has the Minister accepted the amendment?

Mr. Humphrey: We have a problem with the word "action".

Sen. Daly: In order to declare something as a sensitive area, they have to take action, they have to make a decision. I do not mind what.

Sen. Rev. Teelucksingh: Mr. Chairman, if the question is about the environment, then the Environmental Management Authority according to our laws will be in charge of environmental matters and as long as these have any kind of relation to the environment then it would not only be consistent with the Environmental Management Authority, but with the approval of.

Mr. Humphrey: You want every plan that is considered by this commission, which is a one-stop shop, to be referred to the Environmental Management Authority for approval?

Sen. Rev. Teelucksingh: I was thinking of a development plan. What do you mean by a development plan? Is it a national development plan? Are there small development plans? If you define that for me then—I am thinking of a national development plan, and a national development plan should be approved. As far as the environment is concerned the Environmental Management Authority should give approval.

Sen. Lucky: Senator, just to answer your question about the definition of a development plan. The development plan is already defined in the clause, subclause (2). So it has the meaning ascribed to what is in subclause (2) of clause 19.

Mr. Humphrey: What we are proposing in clause 19(1) is to add after the word “prepared”, the words “and shall be consistent with the environmental programmes of the Environmental Management Authority.” Which is what Sen. Daly is really requesting. That if they have a programme of protecting a particular part of the country, that we in this commission will not offend that programme in any way. It is programmes, not action.

Sen. Daly: Action. They have to take certain action under the Act. It is not just that they have to have a programme, they are required under the Act from time to time to take certain action, whether it is to shut something down, declare it a sensitive area, whatever.

Mr. Humphrey: Give an example.

Sen. Daly: If they declare somewhere a sensitive area that is taking action under the Act. I do not want it limited to programmes or policies because there are certain actions they take. I do not know, but do the draftspeople have a problem with the word “action”?

Mr. Humphrey: Yes, they are saying what if the Environmental Management Authority is taking illegal action. You will have to say “legal action”.

Sen. Daly: Your draftspeople really suggested that, Minister? They really suggested that seriously at this hour of the night? Then in every single legislation that we write, we will have to write “legal action”, “illegal action”. That cannot be serious, with the greatest of respect. It is *omnia praesumuntur*. I am very bad at Latin, but no one could be suggesting that you would have to obey legal action if they acted out of their jurisdiction, then, of course, you would not have to—

Mr. Humphrey: Environmental determinations of the Environmental Management Authority?

Sen. Daly: The only argument—here we go again—bizarre. The only argument is that this could be interpreted to mean illegal action. I say you will have to take every single statute out of there and say well, it is only a legal action. Obviously, if somebody acts outside of their jurisdiction you do not have to obey them, but it is very important because they do take action to declare things as sensitive species, sensitive zones and so on.

Sen. Rev. Teelucksingh: It is not impossible, Sir, that the Environmental Management Authority can say at some time, no, to the commission? Can they say, no?

Mr. Humphrey: They will hardly be in a position to say no, because remember two of the leading people from the environment ministry are on the commission. It is not likely, and even so, the Memorandum of Understanding is embodied in the legislation.

Sen. Daly: The Memorandum of Understanding is not lawful, that is something that is—

Mr. Humphrey: The existing one is not, but when the law is passed, the Memorandum of Understanding will be lawful.

Sen. Daly: We will see about that, we have not voted on that section yet, but if the only objection to the word “action” is that it encompasses illegal action, then with the greatest respect, that is wrong.

Mr. Humphrey: So environmental actions of the Environmental Management Authority? No problem.

Mr. Chairman: We will go to Sen. Prof. Ramchand, and then to Sen. Prof. Deosaran.

Sen. Prof. Kenny: I do not have an amendment, I just want to point out to Members of Parliament that the piece of paper which I have here is the law of the land, it is the rules for environmentally sensitive areas. I will give you an example of this sort of thing. It is entirely within the power and authority on the basis of these rules to declare the area of the Cocal, down Cascadu Trace, right around Plum Mitan Beach and say, this is a sensitive area on the basis of these rules and why it is a sensitive area and they would then say what you may or may not do.

If the authority—which has been voted with a special majority of Parliament—gives power to this authority to do this and we have actually gone through these rules, we have gone out to the public and everyone has them and this is the law, and if they say that is a sensitive area, and this is what you may not do in it, it does not matter what kind of grandiose plan you have for a resort and walkways through the Nariva Swamp and so on, it will be an action of the Environmental Management Authority to declare this as a sensitive area under the law.

Mr. Humphrey: Yes, well that is the law. [*Interruption*] Exactly, so when the application came into the division, it was immediately sent to the Environmental Management Authority.

Mr. Chairman: Sen. Prof. Ramchand and Sen. Prof. Deosaran, could we hear you?

Sen. Prof. Ramchand: Mr. Chairman, clause 19(2)(c)(iii). Maybe the Minister can clarify what is meant, but the way this is written it suggests that you want to protect the buffer zones, but you do not want to protect the buffer zone. The buffer zone, as it were, intercedes between the development and the sensitive area. So buffer zones where no construction will be permitted due to vulnerability of adjacent zones. It is not the buffer zone you are protecting, the buffer zone is really a buffer protecting the thing that needs to be protected. A buffer offers protection, you do not protect the buffer. That is my explanation of the amendment.

Mr. Chairman: That is the first one, I think you have two other amendments, or is that it?

Sen. Prof. Ramchand: Clause 19(3)(e), I am told that 19(3)(e), speaks about an environmental impact statement because what it is really saying is not calling for an environmental impact assessment at this point. There is not a specific plan. This is policy or a concept facilitator and I am told that the correct term to use here is not environmental impact statement, but a strategic impact assessment. I understand that is the proper term for what is meant here.

Sen. Als: I will like to find out whether you could put up a clinic in a buffer zone.

Sen. Prof. Ramchand: We are not talking about buffer zones again, you know.

Sen. Als: I was wondering whether one could put one up there.

Sen. Prof. Ramchand: I would yield to superior knowledge about this, but I have talked to a number of persons who are involved in environmental matters and they say—

Sen. Als: You have a gentleman sitting next to you who knows very well it is simply a matter of terminology.

Sen. Prof. Ramchand: Is it simply a matter of terminology?

Sen. Prof. Kenny: It is a matter of terminology. An Environmental Impact Assessment is a preliminary thing, it is not very demanding. A strategic assessment is quite a different exercise and then an Environmental Impact Assessment is—

Sen. Prof. Ramchand: The Bill clearly is not asking for an Environmental Impact Assessment at this point, it is asking for something more of a policy or a conceptual nature, it is not relating to a specific proposal, or to a detailed plan. The fact that the word “statement” is used here instead of “assessment” is an indication.

Mr. Humphrey: In clause 19(2)(c)(iii) what is being proposed here is perhaps to take out the word “buffer” and say, “zones where no construction will be permitted due to vulnerability of the area to environmental hazards whether natural or man made;” Or leave the word “buffer” and put, “vulnerability of the development area to environmental hazards...” In other words, the buffer of it becomes a protective device to a vulnerable area, or the buffer itself is a vulnerable area that needs to be protected. The zones, sorry, not the buffer, we take out the word “buffer”.

Sen. Prof. Ramchand: Yes. I prefer your first version.

Mr. Humphrey: Take out the word “buffer”. Clause 19(2)(c)(iii) is amended as follows:

zones where no construction will be permitted due to vulnerability of the area to environmental hazards whether natural or man made;

Sen. Dumas: I think you just want to put one word after “the” and between “the” and “zone”, and you are talking about the protected zone to environmental hazards? “Buffer zones where no construction will be permitted due to the vulnerability of the protected zone to environmental hazards whether natural or man made;” Because really, the buffer zone is protecting the next vulnerable zone, so all you want to do is put the zone before the protected zone.

Sen. Als: Mr. Chairman, is it possible that you could say, “no” on approved buildings? The reason I raised clinic is that you may have a zone because rural communities sometimes are not placed into the plans, so sometimes a whole area may be considered sensitive, but people live there and there is no unapproved building, and it is very important because sometimes we are urban centric in our

planning in the main, many areas will not have important developmental activities that have no impact in terms of confusing the environment. So I am simply proposing that we say: “No unapproved building”, because it may be as cool—

Sen. Morean: What is he talking about?

Sen. Als: We need to be following the Bill.

Sen. Prof. Ramchand: I really do not know what he is talking about, you know.*[Laughter]*

Sen. Als: Well you need to know. I am trying to gain your attention.

Mr. Chairman: We are on clause 19(2)(c)(iii).

6.45 p.m.

Sen. Als: The Minister made a point where he said *[Interruption]* Yes, I am very much on 19(2).

Mr. Chairman: Number (c)(iii). That is where we are.

Sen. Als: The question of “no unapproved building” not “no building”. It is relevant. Look at it and see how relevant it is. I live in a rural area, you know.

Mr. Chairman: What is the Government’s position on this?

Mr. Humphrey: Mr. Chairman, let us deal with the first amendment, that is clause 19(2)(c)(iii). That would now read:

“...zones where no construction will be permitted due to vulnerability of the area to environmental hazards whether natural or man-made;”

Mr. Chairman: Why are you changing “zone” to “area”?

Mr. Humphrey: Because the zone protects the area. You have an area that is environmentally hazardous in the event of a man-made or natural disaster and you want to establish a zone for planning purposes in which no construction is going to be permitted. Is that not the sense of it?

Sen. Morean: Mr. Chairman, why not just use the word “protected”? That would give us the meaning of what is intended.

Mr. Humphrey: “Area” is more general than “adjacent” because it may be even further afield.

Sen. Morean: It does not bring out the meaning. “Buffer zone” means something. Just put in the word “protected”.

Sen. Dumas: Mr. Chairman, if we are describing something like a watershed coming down the road, there is almost an understanding that you are going down slope. The protected area may be the lower part, then certainly, the buffer zone would come before that. But if I put the buffer zone up, then I am dealing with the area in front of the buffer zone or the area behind the buffer zone and all of that becomes a vulnerable area.

I am putting a buffer zone because the adjacent piece, the protected piece is under threat so I need the buffer zone to protect the lower end of the watershed. If you do it coastal you can do the same kind of analysis. You must identify the area that is protected and the buffer zone does that.

Mr. Humphrey: What Sen. Prof. Ramchand is saying is that a buffer zone especially is to protect a wider area. There is Iraq, there is a zone, a no-fly zone, that has been established.

Hon. Senator: But that is not a buffer.

Mr. Humphrey: It certainly is a buffer.

Sen. Dumas: A buffer protects.

Mr. Humphrey: Sen. Morean, what do you propose? I prefer “zones where no construction be permitted due to vulnerability of the area to environmental hazards;”

Sen. Morean: That is the gist of what you are saying.

Mr. Chairman: Are we going with the proposal from Sen. Morean?

Mr. Humphrey: I am very happy with Sen. Prof. Ramchand’s version because to me it expresses what we are trying to do. You are having an area of land on which no development is going to be permitted to protect another area of land, that is what you are doing. For example, in the Nariva case, a zone would be established to ensure that the area for the macaws would be protected and no development would be permitted within that zone. In that way you protect the macaws.

Hon. Senator: But if you leave it out, construction would be permitted in the buffer zones.

Sen. Morean: Exactly.

Mr. Humphrey: No construction would be permitted. It is being proposed that we keep the word “zone” and say “buffer zones where no construction would be permitted due to vulnerability of the adjacent zone to environmental hazards,

whether natural or man-made.” It achieves the same thing but the drafters want to retain the word “zone” so as not to have confusion in the courts.

Mr. Chairman: So we would accept Sen. Prof. Ramchand’s amendment.

Mr. Humphrey: “buffer zones where no construction would be permitted due to vulnerability of the adjacent zone to environmental hazards whether natural or man-made.”

Mr. Chairman: So we accept that amendment. The other one is typographical.

Sen. Prof. Ramchand: Clause 19(3) a development plan “shall” include, rather than “may” include. And if I may try to explain clause 19(3) again. An environmental impact statement, as my colleague states here, is a desk job. It is a very small thing and an environmental impact assessment—

Mr. Chairman: No, no, no. You are going too fast. We are not there yet. We are just trying to settle on “may” or “shall”.

Sen. Lucky: Sen. Prof. Ramchand, in terms of clause 19(2), that is what the development plan “shall” include. So what is in subclause (2) is mandatory. Subclause (3) is deliberately phrased to have the word “may” because it is meant to give flexibility. It “shall” have certain things in subclause (2) and in subclause (3, it may or may not. These are not mandatory. That is why we would prefer the word “may” there.

Sen. Prof. Ramchand: Once I have brought your attention to it and you have affirmed that is what you want, I cannot do anything more.

Mr. Chairman: Would you withdraw that?

Sen. Prof. Ramchand: Yes, I withdraw it.

Mr. Chairman: Okay. The final one, Sen. Prof. Ramchand.

Sen. Prof. Ramchand: The final one at (e), I am saying that the environmental impact statement is a desk job, you can just sit and say, “Take that.”

An environmental impact assessment is a very complicated and detailed assessment and I think this piece of legislation was looking for something that was not as complex or profound as the EIA and it went for statement, but a statement could be watered down to nothing. So what you want is the technical term that implies not as profound as an environment impact assessment but not as trivial as a statement and the term is a “strategic impact assessment”.

Sen. Dr. McKenzie: Mr. Chairman, I thought the statement would have come as a result of the assessment. I was just following the words after “environmental impact statement incorporating a systematic environmental appraisal of policies and proposals having environmental implications as an appendix to the Development Plan.” I thought the statement would have incorporated what would have been an environmental impact assessment. That is how I interpreted it.

Sen. Prof. Ramchand: Mr. Chairman, after consultation, I had changed that. I revised the thing. It is a strategic environmental assessment that is being proposed, not an impact. I was reading from my old notes previously.

Mr. Humphrey: So that is the wider picture. We will go with that.

Sen. Prof. Ramchand: It really is an appraisal of policy.

Mr. Chairman: Sen. Prof. Deosaran, you have an amendment?

Sen. Prof. Deosaran: Mr. Chairman, legislation like this is described as social legislation. I think it is the Minister’s intention, I am quite sure, to look after the widest realm of public safety. I refer in particular to the amendment that I have tabled that is moving clause 19(3)(c) and making it as 19(2)(g) with the order accordingly changed, the reason being it is really a matter of public safety and, as we have heard in the Chamber recently, the life of the law is based on experience not logic.

6.55 p.m.

In this case I think the argument for this movement, that is, for making it just “may” to putting it under the clause where there is “shall”, which is mandatory, is really, from recent experience, where we have these new expansions, especially malls being built close to busy highways and where public safety is obviously endangered. I think the question of having a transportation plan and a “proposed major roads and other transportation facilities” is a very deserving proposal, but it should be, in my view, mandatory.

Mr. Chairman, we have witnessed several incidents arising from badly planned roadways—entering and exiting—and the Minister should be persuaded to, and we should encourage him to put this under mandatory. I think now is the opportunity for the Minister to give this his very kind consideration.

Mr. Humphrey: But a land use plan could be confined to a small area and this is catered for in 19(2)(d):

“such maps, drawings and other graphic representations, and such data, proposals, descriptive matter and other information as may be necessary to illustrate, explain and provide a reasoned justification...”.

[*Interruption*] If it would affect traffic arrangement that should be properly identified.
[*Interruption*] It would not apply if the development plan is not close to the road.

Sen. Prof. Deosaran: If you want to take the risk, because this is a public safety issue, it is your Government. I think this should be on the side of caution because it involves public safety. This is an opportunity to show some concern even if you have to make a number of amendments.

Mr. Humphrey: If so, we will have to say something like “where applicable”. [*Interruption*] Yes, we can go with “where applicable”.

Mr. Chairman: Do you want to raise a point, Sen. Daly.

Sen. Daly: It may have been taken care of, Mr. Chairman.

Mr. Humphrey: I do not think we have a problem with “where applicable”.

Sen. Prof. Deosaran: Thank you very much.

Sen. Daly: Mr. Chairman, I understand that is significant and the Minister is making some very gracious concessions.

Sen. Als: As normal.

Sen. Daly: What is that?

Sen. Als: I said as is normal.

Sen. Dumas: No more? [*Laughter*]

Sen. Als: I said, as is normal. Normal.

Mr. Chairman: Sen. Daly, can you make your point? [*Interruption*]

Sen. Daly: Yes, Mr. Chairman, I will take your advice. I am biting my tongue. I want to know if when you have development far from the main road is it not applicable?

Mr. Humphrey: You do not need to generalize. It is only where you have a plan that includes or is near a major road or highway.

Sen. Daly: What if there is a development in the bush? There are major roads in the bush. It is a major road if it is the only way in and out. [*Interruption*]

Mr. Humphrey: That area is already being planned for agricultural use.

Sen. Daly: But you must have a way in and a way out. Any way I would not press it, Mr. Chairman.

Mr. Humphrey: This is a wider requirement. In fact, the Minister of Transport is right now before Cabinet with a proposal to develop a national transportation plan for agricultural use.

We put it as “g” and renumber “g”. Then we have to change in (3), “d” to “c” and “a” to “d”.

7.05 p.m.

Mr. Chairman: Are we accepting that? The amendments proposed by Sen. Daly and Sen. Prof. Ramchand, with the exception of clause 19(3) line 1 and Sen. Prof. Deosaran now stand part of the Bill.

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Clause 20.

Question proposed, That clause 20 stand part of the Bill.

Sen. Dumas: Looking at clause 20(2)(d), there is power for the minister to constitute authorities. When you look at that (d), the possibility arises that there could be a disagreement between the authority and the minister and that reconstitution of the authority. Should you not have some limit on that as to why or what should constitute the grounds for constituting and reconstituting?

I take that in the context of clauses 20 and 21(4) also where the commission approves local and planning authorities provisional development plans. Then there is the question of clause 22(2). You can direct them to do certain things where the commission is not prepared. There is no provision for appeal, as it were, if you do not have an agreement between the local government authority and the commission. I suggest you may want to look at the grounds for constituting or deconstituting, as it were, the authorities.

What happens in times of conflict between the commissioner and local authority? I ask you to give consideration to the fact that in the main, local government authorities are made up of elected people. There is a situation where conflict can arise between the elected local government authority and the appointed commission. According to the law as proposed, the commission will have the power to direct them as to what to do in their local authority area. The

possibility is that you can combine some and deconstitute them. You need to consider on what grounds you do such things.

Mr. Chairman: It is not an amendment.

Sen. Dumas: I am not proposing any amendment. I am just asking the Minister to consider his responsibilities.

Mr. Humphrey: In fact, it is not the commissioner that would have the problem with the local authority. It is the central government that may have a problem with the local authority. For example, if in the National Physical Development Plan, certain provisions are made that would impact on a local area, and the local authority does not support those provisions, Parliament, having approved that plan has to be the supreme authority. Remember that we are accountable to Parliament. It becomes a statutory plan. If a local authority says in our area we are not going to conform to that, what do you want to do?

Sen. Dumas: I will say that you have to find a way to resolve it. The people may kick you out because they do not want the plan.

Mr. Humphrey: Go for election.

Sen. Dumas: Yes. For example, what is being suggested in Charlotteville, if the people do not want it they would say something to people about it. You propose a plan; you say that this is the national plan; the people say that they do not want it and we elect another set of people the next year to be the local authority. How do you resolve that conflict and situation?

Mr. Humphrey: There is only one way to resolve that.

Sen. Yuille-Williams: In clause 20(2)(e), I spoke about that in my contributions. I am quite sure you read about it; if you require two or more planning authorities to do that. I was speaking to chief executive officers in different areas. They found some difficulty coming together with another local authority to prepare a particular plan.

Mr. Humphrey: “(e) require two or more planning authorities to prepare joint development plan of a kind specified in the notice; or require two or more planning authorities which are preparing a joint development plan to cease from doing so and prepare separate development plans of a kind specified in the notice.”

Sen. Yuille-Williams: That might not be so easy as you have it there. It is very difficult to have two local government bodies come together to do any planning for a particular area. They were not happy with that at all.

Mr. Humphrey: An example of what this provision enables has just been explained. East Port of Spain is a distinctive cultural and social area behind the bridge. That is linked with San Juan/Barataria, Laventille and Port of Spain. It is a case like that where the commission would be able to separate the planning area, East Port of Spain, the general area and concentrate the planning and development activities of that area.

Sen. Yuille-Williams: Look what it says here.

Mr. Humphrey: Require two or more planning authorities to prepare joint development plan or require two or more authorities which are preparing a joint development plan.

Sen. Yuille-Williams: That is what the local authority was complaining about, the joint development plans. You would not go very far with that at all.

Sen. Dumas: You cannot propose an amendment because it cannot be fixed by any simple amendment. You might have to fix it when it goes to the Lower House.

Mr. Humphrey: We did a plan for Picton Hill which was a squatting area. People were squatting on the land of the National Housing Authority (NHA). There was a separate plan for developing the Picton Hill area. What is being explained is really an overlapping. If you have a river, water flows through one area into another and you need to develop that river to prevent flooding in both areas, you have to get both authorities together in order to do that. You would not develop the river up to one boundary and then leave it from that boundary down to the sea. That is the instance that is being described to you.

Sen. Yuille-Williams: You know there are problems within that in itself. I spoke to the local authority in three areas. I could never see them getting together. You have just given that as a river. It would be difficult. What you have there about these local authorities coming together is not practical. They are not going to come together to deal with that.

Mr. Humphrey: That is why you need the heavy hand of the Minister to ensure and get proper planning. I cannot think of an instance where there would be a problem with this provision.

Sen. Dumas: The question that arises is identifying the criteria which would be used to join authorities and for dissolving authorities rather than leaving it to what may seem to be arbitrary considerations.

Mr. Chairman: An amendment could be submitted in writing during the committee stage. It could be in the morning.

Question put and agreed to.

Clause 20 ordered to stand part of the Bill.

7.20 p.m.

Clause 21.

Question proposed, That clause 21 stand part of the Bill.

Mr. Chairman: In terms of clause 21, there is an amendment by Sen. Prof. Kenny, and the Minister has agreed with the amendment in part. Are you now inserting a new subclause, and can you elaborate?

Sen. Prof. Kenny: Mr. Chairman, my reason for suggesting the amendment is that planning is going to be dispersed around the country and all sorts of bodies are going to make plans. In the past the Town and Country Planning Division arranged for public hearings and, in the spirit of openness and transparency, we ought to bind every planning authority, obviously to the commission. If a plan is being developed for the south west of the country, I would like the developmental authority that is producing this plan to hold public hearings and to make a report to the commission within a month of the result of the public hearings.

These public hearings might be one person attending and that is the end of the matter. There are so many plans that have come up originally for different sources of public hearings: Toco, Charlotteville, you name them. *[Interruption]* If a planning authority in the broad definition for one of these outlying areas or regions comes up with a plan, start at the grass roots and have public hearings and then let whoever the planning authority is report to the commission within a fixed period of a month. That is the essence of what I am proposing.

Mr. Humphrey: Would the hon. Senator consider at clause 21(1)(a)(ii) “that representations from the public are invited;” and public hearings are held?

Sen. Prof. Kenny: That attends to part of it. I am suggesting that these hearings which are organized be mandatory and that the report on the hearings goes to the commission.

Mr. Humphrey: If we include “public hearings are held” in clause 21(1)(a)(ii) you have already got a provision for the procedure thereafter.

Sen. Prof. Kenny: Mr. Chairman, the question is if the public hearings—this is what worries me.

Mr. Humphrey: If we include that in the clause because that clause starts off by saying, “any one authorised to prepare a development plan, in the course of such preparation, shall—”

You are saying:

at the outset, publish in a newspaper of general circulation, a notice that the preparation of a development plan is about to begin and indicate—

- (i) the area being considered.
- (ii) that representations from the public are invited; and
public hearings are to be held.

Sen. Lucky: Sen. Prof. Kenny, when one also looks at what is mandated in (f) of the very clause 21, these are things that are mandatory. “...prepare a proposed development plan...” and deliver it together with a report on the consultations held under subclause (1)(c).

Mr. Humphrey: That will satisfy your requirement. There has to be a public hearing.

Sen. Lucky: And report on it.

Mr. Humphrey: I am suggesting that we include in clause 21(1)(a)(ii) the words, after “and” “public hearings are to be held”.

Sen. Daly: There ought to be public hearings and an obligation to hold them. It might be easier if we did it under 21(1)(c), publicly consult.

Mr. Humphrey: You mean do not worry with amending (ii) but put the words, “publicly consult”. In fact, that is the intention.

Mr. Chairman: Sen. Daly has proposed that under clause 21(1)(c) we insert the words, “publicly consult”.

Mr. Humphrey: I am advised at clause (c) these consultations are special consultations and not public consultations so it would need a separate provision for the public consultation.

Sen. Daly: [*Inaudible*] special consultation.

Mr. Humphrey: For example, with interest groups that may be affected. In the case of the interchange at the Churchill-Roosevelt and the Uriah Butler Highways, the Grand Bazaar, Nestlé and Bamboo No. 1 are affected.

Sen. Rev. Teelucksingh: Can we go back to subclause (1)(a)(ii): “that representations from the public are invited inclusive of public hearings” if you want to preserve that public hearings.

Sen. Daly: Why should the owners of a bazaar not be part of a public consultation? Why should there be closed door consultations? They may represent something that is completely contrary to the interest of the local residents. It is far better to have all of them in one group. I believe the jargon word is “interfacing” with each other.

Mr. Humphrey: Remember, we are talking about publishing in the newspaper for general circulation a notice that the preparation of development plans are about to begin. In that notice you would say the area that is being considered, that representations from the public are being invited and public hearings are to be held. That takes care of it.

Sen. Morean: No. What Sen. Daly has said, and I agree with, that just inserting the words, “public hearings” does not give authority to whoever is the planning authority to hold such hearings. One has to invest it with the authority in the section in addition to saying that, publishing it in the newspapers. So you first have to invest it with the authority and then you could set out the procedure by which it would carry out that authority that is, putting it in the newspaper and so on. So, there is need for another section somewhere to take care of that.

Mr. Humphrey: You would need, therefore, a substantive subclause; anyone authorized to prepare a development plan in the course of such preparation shall hold public hearings. Where do you want to put it, between (b) and (c)? So you are going to put a new subclause (c) and change (c) to (d) and so forth.

Sen. Daly: How is the consultation different from the public hearings other than one is public and one is private? Why should there be groups meeting in private? Why should everyone not come to the same meetings and exchange their views? Private meetings lead to private arrangements. Everybody should be publicly consulted. Why should the bazaar man whisper something in the ear of the official and then the local residents whisper something in the ear of the official? They all concern the same area and they must thrash it out in public. I

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would like to adopt what Sen. Prof. Kenny said “private meetings lead to private arrangements”. Let this National Physical Planning Commission of which you are so proud go out there and have their ears bent.

Mr. Humphrey: Planning authorities all over the world subject themselves to that kind of thing, I agree.

Sen. Daly: That is why we want it here. We do not want people sitting in towers and making plans for residents of other areas. I would like to take this physical planning commission of which you are so proud and drive them to Cocal and see that the people have already dug moats in the strips of land that border the sea. I have no idea what the drainage consequences for the area are. They are sitting in some tower being praised by you.

I drive along that road every weekend and I see these moats and I do not know what is going to be the effect of that on the drainage in the area. It might increase sea erosion, I do not know. Let us have a public consultation with everybody who is affected. Cards on the table.

Mr. Humphrey: Let us put it in the legislation.

Sen. Daly: We have a six-mile moat.

7.35 p.m.

Mr. Humphrey: I am proposing that we put another subclause to include public hearings. It is mandatory that the planning authority hold public hearings. We should leave:

- “(c) consult with such persons, bodies and authorities as—
(i) are likely to be affected...”

Sen. Daly: Is that a private consultation?

Mr. Humphrey: If in doing the interchange I had to move a quarter of Grand Bazaar, with whom should I discuss that?

Sen. Daly: I would love to hear you and the owner of Grand Bazaar discussing that in public. You all will be well matched. You could sell tickets for such a consultation.

Mr. Humphrey: You would not get the interchange because he would take the matter to court and you fellows will keep it there for 15 years before it is resolved.

Sen. Morean: May I have the Minister's position on what I have suggested? My suggestion is that we amend (c), remove the word "consult" and simply say "hold public consultations". That takes care of everything. You do not have to do any other clause. [*Crosstalk*] But you are doing it. You want to do it in public. That takes care of holding any backroom discussions. That is transparency with a capital "T". [*Crosstalk*] Well, advise them. Attorney General, have you advised them?

Sen. Lucky: I am not the Attorney General. I have indicated that I am very happy with holding public consultation.

Sen. Daly: Let us get on. The tail is wagging the dog.

Mr. Humphrey: We are proposing that you have mandatory public consultation and the option to hold private consultations with people who are affected. People would be beneficially affected and others will be quite the opposite.

If you have to build a highway and you have to take people's property to enable the highway to be built, you will bring those people to a public consultation to discuss it? We are developing a plan. They might say, "Listen, we have land at the back of our place. Why not take that land and redirect the course of the highway so that it does not adversely affect us?"

Sen. Daly: [*Inaudible*]

Mr. Humphrey: No, we are using his land. A man has two acres of land and you have to take a strip of it for a road.

Sen. Prof. Ramchand: Will the result of these private consultations be brought to the public discussions?

Mr. Humphrey: The plan would be in the public consultation, but you specifically consult with the individual affected. For example, you have to run a pipeline. It is going to go through people's properties. Are you going to call them to the public consultation to discuss how it affects them adversely? Leave it open. Give them the two options, but make it mandatory to hold public consultations in developing the plan, not develop the plan then take it to people. In developing the plan, you hold public consultation.

Mr. Chairman: I understand what the Minister is saying is that—

[*Crosstalk*]

Mr. Humphrey: We are going to put a subclause "to hold public hearings or consultations". Which word do you prefer? Consultations? It is mandatory that in developing any plan that you hold public consultations—the harbour in Charlotteville.

Sen. Prof. Ramchand: From what the Minister says, you hardly need to legislate for consultation with the person affected. If you are coming to interfere with my piece of land, you have to consult with me whether the law says so or not.

Mr. Humphrey: It makes political sense to do that, sure.

Mr. Chairman: Do we agree?

Mr. Humphrey: A new subclause then to say, “hold public consultation”; then (c) will be (d) and so forth.

Mr. Chairman, in subclause 21(1), we are taking out “Insofar as it is appropriate to do so” and putting a capital “A” on the word “any”. We are starting at “any”.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23.

Question proposed, That clause 23 stand part of the Bill.

Sen. Daly: Mr. Chairman, let me help. If the Minister's amendments as circulated are going to be put in place then I withdraw my amendments to clause 23.

Amendments withdrawn.

Sen. Prof. Ramchand: Mr. Chairman, the purpose of my amendment was to take away the “as” from “as if”. Yes, I will go along with the Minister's amendment.

Amendment withdrawn.

Sen. King: The Minister's amendments satisfy my request.

Amendment withdrawn.

Sen. Prof. Kenny: Mr. Chairman, there is a lot about this Bill that I do not support and I was just trying to find a formula. Governments are established to serve the citizens of the country, at least. The bulk of the ordinary citizenry in acquiring property—everybody faces it unless he has cash—has to go through the routine of obtaining funding one way or another. When they try to acquire this piece of property, they put 10 per cent down and they settle in 90 days and if they do not settle, their deposit is gone. They are finished.

Now, why do we not find a formula that would bind the Government to this sort of thing? I was trying to frame up something in response to one of the

subclauses. At this stage of the evening, I am so absolutely worn out, my limbic system is now taking over, which means that I am going to fall asleep in five minutes' time. I am not making a big issue. I do not support the idea of designating land for acquisition. It is offensive to me. I think that after you have made your plan to acquire land, acquire it in the normal way. Settle people promptly.

When I was making this proposal, it was really only to try to accommodate. I still find it difficult to support a lot of what this Bill is about, and one of them is designating land for acquisition as part of a plan. I find it offensive. I do not think that what I am proposing here is the best solution. Surely we must forget the past and move on and treat the citizens of this country properly and fairly.

We have to have good planning law and we have to be able to acquire land. We understand this. As I pointed out in the debate, if you took my lands at Blanchisseuse to make a north coast road, I would have only pleasant memories of 20 years. I cannot stand in your way.

The conceptual plan for development was prepared by—I am not quite sure whether it was the Planning Commission or whether it was Halco Fox, but it is on CD. The people of Toco may not appreciate that the plan for a ferry port is still there and that under this new law, the planners can say they are redesignating that 15 hectares as part of the regional plan. The plan may never come off. I was just thinking that the people who live there—people who were born in a house there—you put a plan saying it is designated for a ferry port—five years, they are dead. They cannot do anything. The land has no value. So, if you are going to put it as part of a plan to acquire something, put a time limit for execution on it. If you did not take it within the five years, then I would suggest a refund, although one of my colleagues, Sen. Thomas, has suggested it not be a full refund. If you settle them and you do not use it, then, I think his figure suggested a fraction. We are dealing with citizens of this country. We are passing law here.

Certain parts of the law make me cringe inside, especially as I have seen people—I have been up to Toco and have been described as an outsider by the planners, among other people. [*Interruption*]

7.50 p.m.

Sen. Als: I could respond to that you know, Senator.

Sen. Prof. Kenny: No, no, I am explaining—

Sen. Als: With respect to that example you are using, the Cabinet has already rescinded the acquisition.

Sen. Prof. Kenny: I know that.

Mr. Humphrey: In the conceptual plan you have a port indicated at Toco.

Sen. Als: Yes.

Mr. Humphrey: It is not a development plan, it is a conceptual plan. At the stage of developing a conceptual plan you should do two things. Before you do it, you should consult with the people who would be affected. When you do it, you should take it back to them and that, in fact, has happened. The people of Toco have spoken loud and clear. They do not want the ferry port there.

Sen. Als: We say, “nah”.

Mr. Humphrey: So we now have to look for another location, if we are going to link Trinidad to Tobago for a fast ferry service. In fact, the planners had indicated that the better location for the ferry port was to extend the Churchill Roosevelt Highway to the East Coast without having the winding road to Toco.

Sen. Prof. Kenny: Mr. Chairman, we are dealing with people, and my problem with this business of designating land for acquisition on a plan, and you put people into limbo for five years is, to me, offensive. I was trying, with my amendment, to find a formula that would—People would face up to the fact; you are taking my land, okay, settle me. If you do not really take my land I would give you back something. That is the essence of what I was trying to do. I do not agree with designation of land for acquisition as part of a development plan. I believe you ought to make your plan and I believe you really ought to go to the market.

Sen. Daly: I support that, Mr. Chairman. I understand that the Minister has made many gracious concessions, but I have to say that after we are here for 12 hours—it is not 12 hours yet—I am going to suggest, quite forcefully, that we have done enough.

Let me explain what my difficulty is with this. Even though a number of gracious concessions have been made, compulsory acquisition, as we understand it to date, has involved some specific piece of action. In other words, the Government decides it is extending a highway and in order to do that particular project—which is ostensibly for the benefit of everyone around—they have to acquire relatively small amounts of land to do the project. The difficulty with this is that someone might decide that Toco should be used as a ferry port and however you cut it and slice it, that will destroy the life of people in Toco as they know it. Therefore, like Prof. Kenny, I have this difficulty that it is not sufficient to say that I can take an entire village and change their life by a planning decision.

This goes beyond taking a relatively small area for the purpose of a road; you are now affecting the lifestyle of an entire village. [*Interruption*] We will get to whether it is for better or for worse.

The question we are having difficulty with is: Is it right that someone—as part of a planning exercise—could make a decision that Toco should now be used for something that is going to, irretrievably, alter the way of life of the people there, and without paying any compensation whatsoever destroy the value of their lands. [*Interruption*] No, for any period. So from the moment it is announced that this is going to be a ferry port and the land is to be acquired for this purpose, it is a bundle of people—it is not just one or two parcels of land—who would be affected. Assuming it is right to do that in exchange for compensation—which is a moot point—whether money can compensate for the destruction of someone's lifestyle—even assuming that you can do it—because of a theories of eminent domain and so on; that it is right to do it if you pay compensation—then the Bill completely lacks any provisions for the payment of compensation in an accelerated way. So we are sending these people into the same old compulsory acquisition system, where after people have made zillions of dollars out of the operations of a ferry port, and the landowners may not have been paid.

I have the same problem as Sen. Prof. Kenny, that if we are to agree to this at all, then unlike normal compulsory acquisition procedures—which affect the relatively small parcels of land—we should have a whole compensation structure.

Mr. Humphrey: The principle is definitely supported.

Sen. Daly: It has to be drafted. Are we going to do it now?

Mr. Humphrey: Well, you can amend the Land Acquisition Act because there is no time limit in the Act.

Sen. Daly: We must pass this on the promise of an amendment?

Mr. Humphrey: Or include it in this Act and let this provision govern the acquisition.

Sen. Daly: Yes, that is what we are saying. If we are now going to extend compulsory acquisition to this large-scale operation, then we have to have a dedicated compensation structure built into this Act to govern those kinds of acquisition. I do not know whether we can do that at 7.55 p.m., after we have been here since 10.30 a.m., and do it on the hoof without any thought.

Mr. Humphrey: Do you think it is reasonable to expect the person who has been compensated for his land to refund the money in the event that no development occurs? He should have the option.

Sen. Daly: That is a detail that we would have to get into.

Mr. Humphrey: “The owner shall refund compensation paid by the State.”

Hon. Senator: That should be at the owner’s discretion.

Mr. Humphrey: Yes, because he might say: Keep the land, I have gotten my money and I have invested it.

Sen. Daly: Those are things that we cannot do by an exchange of 36 people over a desk. If you agree that we have to have a compensation structure then someone would have to draft it and we would have to look at it.

Mr. Humphrey: No, but Sen. Prof. Kenny has drafted—

Sen. Daly: What, are we going to cobble this together now?

Sen. Prof. Kenny: Mr. Chairman, I made it quite clear that I have great difficulties with certain elements of this. In fact, it determines whether or not I support the Bill in the end. As a Member of Parliament, having taken an Oath of office, I am required—whatever my personal views—to try to make sure that what we pass here is in the best interest of the citizens of Trinidad and Tobago.

In doing this, Mr. Chairman, I spent many hours and I am sure that other people—even on the Government’s side—must have spent many hours pondering this question.

Sen. Yetming: We are supporting you in principle.

Sen. Prof. Kenny: They are supporting in principle?

Sen. Yetming: We are supporting you, I do not think there is any debate on that. I think the point is whether we could draft the provision tonight. That is the issue. What I disagree with is your second part where you almost make it mandatory for the “fella” to refund the money. We are supporting you on the first part.

Sen. Prof. Kenny: This is a problem of drafting on my part—I am totally inexperienced—but the sentiment there was that if you take somebody’s land and at the end of a certain period you decide not to use it, the person ought to have the option of getting back his land.

Sen. Gillette: Mr. Chairman, just one thing, we have agreed, in principle but it is late and I wonder if we can continue. I do not know if we can get through everything by tonight if we can actually meet tomorrow afternoon again, or even Thursday as we had planned before because the Minister would not be here after next week. [*Interruption*] I am only suggesting something.

Sen. Daly: Mr. Chairman, here we are, we have arrived at the point where the Government is graciously conceding but we need a dedicated compensation structure for this kind of acquisition. Now that requires studied drafting not hustling down something now. I can only speak for myself. If we want to make some more progress—and I am not suggesting that we stop now, but we will get to a point where we cannot finish this; whether that point is 10.30 p.m. or midnight we will have to debate that later on. I do not understand why we then have to make some new arrangement to have another sitting this week when some of us would not be able to participate.

Sen. Morean: Mr. Chairman, through you, could the Minister say why we have to rush through this Bill at this time? Is there a reason? If we know the reason maybe we can make the sacrifices. Why is it necessary for us to go to midnight on this Bill and then come tomorrow—or whatever time we agree on—to rush this through? Is there a reason?

Sen. Gillette: I agree with Sen. Daly. We will probably go until 10.00 p.m. or 10.30 p.m. before everyone gets really tired and then I am suggesting that if you want we can come back tomorrow or Thursday That is all I am saying.

Sen. Daly: Next Tuesday.

Sen. Prof. Kenny: Mr. Chairman, we have given up Private Members' Day—I think it is supposed to be next Tuesday—and I am quite prepared, in the interest of getting this legislation right, to defer my motion for the convenience of the Government.

Sen. Gillette: Mr. Chairman, let us continue and see where we reach up to 10.00 p.m. and then we can agree to come back. We can defer this clause so that it can be redrafted and we can continue.

Sen. Prof. Ramchand: In principle, however, you would not object to us finishing on Tuesday?

Sen. Gillette: I would not object, but what I am saying is let us defer this clause so it can be redrafted. As I have said, we have agreed, in principle, and let

us continue from there and see how far we reach, maybe up to 10.30 or 11 o'clock. Is that okay?

Sen. Prof. Kenny: If we are having certain things redrafted then may we see the amendments or changes before the meeting on Tuesday?

Sen. Gillette: That should be no problem. Once again, Sen. Prof. Kenny, if you tell us where you will be, we can send it up to Blanchisseuse or wherever, it is not a problem. What I suggest we do, Mr. Chairman, let us defer this clause, I know we also deferred clause 5—and let us go on until a decent hour—maybe 11 o'clock—and see what happens then.

Question put and agreed to

Clause 23 deferred.

Clause 24.

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

Mr. Chairman: We have a couple of amendments here from Sen. Prof. Ramchand, Sen. Prof. Kenny, the Minister, Sen. Prof. Deosaran—

Sen. Prof. Ramchand: I agree with the amendments proposed by the Government so I withdraw my amendment.

Amendments withdrawn.

Sen. Prof. Kenny: Mr. Chairman, I withdraw my amendments also in favour of the Minister's.

Amendment withdrawn.

Sen. Prof. Deosaran: Mr. Chairman, I also withdraw my amendments in favour of the Government's.

Amendment withdrawn.

Mr. Chairman: We have Sen. Prof. Kenny, Sen. Prof. Ramchand and Sen. Prof. Deosaran withdrawing their amendments in view of the Government's amendment.

Sen. Dumas: Mr. Chairman, I was saying earlier that the notices were published in the *Gazette* and a daily newspaper. I am suggesting that if you are asking people who are desirous of making comments et cetera—objections in particular—then it should be published in the *Gazette* and the daily newspaper.

8.05 p.m.

Mr. Chairman: In clause 24(1) it is being proposed that we have a daily newspaper apart from the *Gazette*. How does the Government feel about that? John, it is being proposed that, for instance, apart from the *Gazette*, in one daily newspaper, clause 24(1).

Sen. Prof. Ramchand: Mr. Chairman, I am very glad to see that the Minister understands the bit he quoted from me about the Bill taking away things from ordinary people and not giving them very much.

Mr. Chairman: He what? I did not understand that.

Sen. Prof. Ramchand: It is just my comment on the Minister's gracious acceptance of a need to handle the land acquisition thing a little more carefully.

Mr. Humphrey: It is unjust to do a plan and then sterilize private land. If you do a plan and you are going to acquire, acquire and compensate, and if you do not develop and the person wants to give you back your money, he could put it in escrow, he could generate some interest, he gives you back, he gets back his land.

Sen. Prof. Ramchand: As I was saying, I am very glad that you have made that—[*Interruption*]

Mr. Humphrey: But absolutely. However, that gentleman in the white tunic has got to agree to give us the funding for prompt compensation. [*Laughter*] [*Crosstalk*] “And two newspapers in daily circulation”.

Mr. Chairman: The proposal is that apart from “notice in the *Gazette* and at least one daily newspaper”—[*Interruption*]

Mr. Humphrey: Two, two.

Sen. Lucky: No. Mr. Chairman—[*Interruption*]

Mr. Humphrey: The *Gazette* and two daily newspapers.

Sen. Lucky: It would read after, “in the *Gazette* and two newspapers in daily circulation in Trinidad and Tobago”.

Sen. Dumas: Thank you very much.

Sen. Lucky: “In two newspapers in daily circulation in Trinidad and Tobago”. [*Crosstalk*] And, Mr. Chairman, in subclause (7)(a), which is on the top of page 53, we have:

“publish a notice in the *Gazette*...”

Then the same formulation of words:

“and two newspapers in daily circulation in Trinidad and Tobago...”

Mr. Chairman: So the proposed amendments in clause 24(1) after “*Gazette*” we add the words, “and two daily newspapers in daily circulation in Trinidad and Tobago”.

Sen. Lucky: No. Mr. Chairman, “two newspapers in daily circulation in Trinidad and Tobago”.

Mr. Chairman: Yes, that is what I have said. Yes, “two newspapers in daily circulation in Trinidad and Tobago”, and then we go to subclause (7)(a), same thing.

Sen. Lucky: That is right. [*Crosstalk*]

Sen. Dumas: 24(14) 24(13). You have basically the same provision for publishing the information but you have a variance. You have one daily newspaper sometimes and the *Gazette* sometimes, and if your intention is the *Gazette* and two, then it should be uniform.

Sen. Yuille-Williams: You notice something, hearings, in (4)?

Mr. Chairman: If you look at (4), you will see where you have at least one daily newspaper.

Sen. Lucky: I am not seeing it in (4). I am seeing it in (13) and (14).

Mr. Chairman: So you want to be consistent?

Sen. Lucky: Yes, in (4), (13) and (14) we make it consistent, right? Yes, Mr. Chairman, thank you very much. We make it consistent in all—(4), (13) and (14), “published”—[*Interruption*] Yes, in (4) it would read:

“...shall publish notice of the hearing in two newspapers in daily circulation in Trinidad and Tobago...”

[*Crosstalk*] So that would be (4). Now, in (13), Mr. Chairman, we would have:

“...shall be published in the *Gazette*...”

Then we use the same formulation of words:

“...and two newspapers in daily circulation in Trinidad and Tobago.”

and likewise in 14. And that ought to take care of—[*Interruption*] Oh, leave (14) out. Okay. Yes, Mr. Chairman, my correction in (14), we do not need it in (14). Would Senators Yuille-Williams and Dumas agree to that? Not in (14).

Mr. Chairman: I think I will put it here, you know. Senators, clause 24 is to be amended as proposed in the Minister's amendments circulated, as well as amendment to the various clauses where the words, "at least one daily newspaper" appear, we put, "two newspapers in daily circulation", in the respective clauses.

Question put and agreed to.

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

Sen. Dumas: Mr. Chairman, those were the amendments that were proposed. *[Inaudible]* I have something else before we move on, please.

Mr. Chairman: When you say—listen—so you want us to reopen this clause?

Sen. Dumas: No, not—no, no, the clause is not closed in my view. What you closed was what was proposed. So the clause is still open, in my view.

Mr. Chairman: No, no, no; the entire clause has been closed as I have put it.

Sen. Dumas: I would just like to add something.

Mr. Chairman: So that is why I was asking if you wanted to clarify—*[Interruption]*

Sen. Dumas: I would just like to ask a question.

Mr. Chairman: Go ahead.

Sen. Dumas: Mr. Chairman in (10)—*[Interruption]* You may laugh. You may find it if you look.

"An Order of the Minister approving the National Physical Development Plan shall be subject to affirmative resolution of Parliament, and an Order..."

Mr. Chairman, what I have as a question is, how do you propose that the Tobago section of this National Physical Development Plan becomes part of the National Physical Development Plan? Nowhere in the Bill do we have provisions for that. So when we come to this point at 24(10), you have the Order appearing making this a National Development Plan. How does it become a National Development Plan incorporating the Tobago Physical Development Plan, and by what process? The Bill is silent on that.

Mr. Humphrey: We are one nation, Trinidad and Tobago.

Sen. Dumas: I am not disputing that. I am just asking that.

Mr. Humphrey: The national development plan is for Trinidad and Tobago and, in developing it, the Tobago House of Assembly has a role to play.

Sen. Dumas: I am not disputing that, Mr. Chairman. What I am asking is: by what process does that section of the National Physical Development Plan become part of the National Physical Development Plan? As far as I read this Bill, there is no provision for that incorporation. There is no process laid out for that incorporation. I mean, if it is that it stands alone and whatever the Tobago House of Assembly decides is agreed, then I have no problem with that. In fact, that is my preferred option.

Mr. Humphrey: You have got two factors that include Tobago in the planning process. One is that the Tobago House of Assembly is in the Commission. So the national plan that is developed by the Commission includes participation from the representatives from Tobago but you have got the consultation process that is required in developing any plan. So it has got to extend to Tobago. In fact, that is what we did when we were developing the conceptual plan.

Sen. Dumas: Mr. Chairman, that is what I—[*Inaudible*] I was expecting you have the Authority standing there, you have the Commission. This Bill recognizes the responsibilities of the THA as an authority under the THA Act, but there is no stated process in the Bill as to how that Tobago Physical Development Plan becomes part of the national. My statement is, if what you are saying is that the THA has the right to go ahead and develop its independent plan and then, when you come to do the National Physical Development Plan, it will be incorporated, then I am just saying that that process should be detailed. I do not know if I am funny.

You see, Mr. Chairman, it arose, in a sense, when I was talking about the criteria for the local areas, but this is just carrying it another step, in that this one is—in the local authorities the Minister can designate, the Minister can determine the planning authority and can identify the processes by which they come in, but in this case it does not. I am saying to you that my preference is, if it is up to me, that the THA develop its plan with or without the help of the Commission and then, at some time when you come to do the National Development Plan, you incorporate it. That is my preferred process. [*Interruption*] Well I am just asking. [*Crosstalk*] Yes, but you see, you cannot put what you had in the front, that you recognize the responsibility, and then—[*Interruption*]

Mr. Humphrey: No.

Sen. Dumas: I think there is a—[*Interruption*]

Mr. Humphrey: Because you do not have a separate government. It is one government, one Parliament, one Judiciary, one nation.

Sen. Dumas: With all respect, that is myth. With all respect, that is myth. You cannot identify—[*Interruption*]

Mr. Humphrey: Not at all. [*Interruption*] Look at where you are right now.

Sen. Dumas: With all respect, it is a myth that you have one point at which decisions are made. You are going to have—except we change that mind-set we are going to have conflict all the time. You have a situation where you have people elected, officers, who you give the capacity. They are going to sit and organize what they do, what they want done, and then they are going to come to you. What is the process by which you are going to incorporate them and incorporate the plans they have? The distinct possibility is that it will have a different philosophy, a different purpose to yours.

You have to find a way of incorporating them properly, and I want to suggest to you that the same way you have a problem with the drafting, they take time and draft the process. Say what the consultation will be, say it and lay it out and identify Tobago's role in it, otherwise you are going to look for noise and get noise for the rest of your life.

Mr. Chairman: You want at the next session and so on—[*Interruption*]

Sen. Dumas: Yes, I want to suggest that they take it back and do it properly.

Mr. Humphrey: The provision recognizes that there is one nation. Tobago has representation on the committee. Tobago has representation in this Parliament.

Sen. Dumas: We are not disputing that.

Mr. Humphrey: The National Physical Development Plan is a national plan that is approved by this Parliament—the House of Representatives and the Senate.

Sen. Dumas: I have not disputed that.

Mr. Humphrey: In the House there are two seats representing Tobago.

Sen. Dumas: You found it necessary to cut out responsibility and lay down a Schedule 15. If that is there, then you are recognizing the barrier even in this Bill, and all I am saying to you is, ensure that the process is such that it reduces the conflict, that it is very clear what people are doing. [*Crosstalk*]

Mr. Chairman: Okay, all right, may I suggest—[*Interruption*]

Mr. Humphrey: We had a process that includes the Tobago House of Assembly Act—the people of Tobago—to reach where we have reached with the conceptual plan. That is the same process that will be used, a process of consultation, but you see, the THA did not have the expertise that was required so we gave the THA—I sponsored it from my Ministry when I was in Housing and Settlements and it worked beautifully. We made a tremendous amount of progress.

Sen. Dumas: I am not disputing it worked beautifully. I was a member of the PRDI which wrote the Tobago conceptual plan, so I know how it worked. All I am saying to you, if we go back there, there are possibilities that you have an articulation that you need to clarify, and I am just asking for that. Let us look at it. [*Crosstalk*]

Mr. Chairman: Okay, let us—we have already decided on clause 24. We are now going to clauses 25 to 28, okay, because there are no amendments before this committee on clauses 25 to 28.

Clauses 25 to 28 ordered to stand part of the Bill.

Clause 29.

Question proposed, That clause 29 stand part of the Bill.

Mr. Chairman: Sen. Prof. Kenny, you have an amendment, Sir?

Sen. Prof. Kenny: Mr. Chairman, at this hour, if we do—I have a proposal here. I was trying to accommodate what I considered to be the reality. Now, I would be quite happy if this thing becomes law and it would mean that elevating of road levels would have to get approval. That is, all the paving that we are doing in the country would need to have the approval of the planning commission because we are creating problems. We are creating road safety problems and we are creating cost to citizens.

8.25 p.m.

I was only assuming with my amendment that this is a reality that the Government's policy is to continue in the ways of the past 30 years. But, having spoken with the hon. Minister, I withdraw my proposed amendment on the assumption that it becomes policy of the Government of Trinidad and Tobago that this thing here, if you want to raise the level of the road, you are going to have to go to the Planning Commission.

Amendment withdrawn.

Sen. Morean: Mr. Chairman, before you move on, while I do not have an amendment, I need some clarification on 29(2)(a). For instance, the carrying out

of works for the maintenance, improvement or other alteration. Would this include painting of buildings? Painting the exterior of a building?

Sen. Lucky: Sen. Morean, when one reads it, those things would be deemed not to be development of land, and it clearly states, it is only if you are doing what would be significant external works, so much so that you would materially affect the external appearance of the building.

We are looking at what I would call the “introduction clause”. So, for the purposes of the Act deemed not to be development of land.

Sen. Kangaloo: But only if the alterations do not materially affect the external appearance of the building. So, if you change the colour of the building from blue to pink, are you not deemed to be materially affecting the external?

Sen. Lucky: No. I do not think that would be considered materially affecting the external appearance of the building. Not a colour change. That would not be considered materially affecting.

Sen. Morean: Is that what you mean? Because what you are dealing with is instead of external appearance, we should say structure, because that is what we are really dealing with, and not so much the appearance, but the structure. Once something is put there, it tells me.

Mr. Humphrey: Once it does not affect the measurements of the exterior. If you add a balcony, that affects the exterior and you need to get planning permission for that. Just substitute for materially, “dimensionally”. “Not materially” becomes “not dimensionally”.

Sen. Lucky: While we are craving further indulgence, Sen. Dr. McKenzie, I know it is not an amendment, but you had asked a question concerning subclause (4) in that clause 29. You said persons were concerned that, for example, they wanted to put on their buildings that they have a particular occupation. I just want to draw to your attention that the present law allows you to advertise on business premises. You can. It is in section 4 of the Town and Country Planning Act.

Sen. Dr. McKenzie: [*Inaudible*]

Sen. Lucky: This is in the regulations, so that the Minister would have the opportunity to give certain concessions, if I might say so, to determine what advertisements, but this was really targeting advertisements that would be like what we call now the illegal sign boards and big blimps in yards without any permission. I know what you are talking about was more an indication as to the

public, what is available in terms of those persons who have their small businesses, so to speak. They are self-employed, as we put it. They will be allowed to do it.

Question put and agreed to.

Clause 29, as amended, ordered to stand part of the Bill.

Clause 30 ordered to stand part of the Bill.

Mr. Chairman: Hon. Senators, there is need for the Senate to resume to consider a procedural motion.

Senate resumed.

PROCEDURAL MOTION

The Minister of Integrated Planning and Development (Hon. John Humphrey): Mr. Vice-President, I wish to report progress on the Bill and seek leave to continue the committee stage at the next sitting. But I wish to advise hon. Senators that since the next stage is proposed to be next Tuesday, I will be enjoying my vacation that I have been trying to get for the last 10 years, and I will not be here with you. So, Sen. Lucky will carry the ball for the Minister of Integrated Planning and Development. [*Desk thumping*]

Question put and agreed to.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, and members of this honourable Senate, I know that next Tuesday was proposed to be Private Member s' Day and you graciously gave it up for the other three Bills we were supposed to debate, which were the Freedom of Information (Amdt.) Bill, the Companies (Amdt.) Bill No. 35 and the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill, Chap. 12:01.

However, having reached where we have reached today, what I propose is that we conclude next week, the Land Bill and we will adjourn this Senate to next Tuesday at 10.30 a.m. for the completion of the Land Bill and that is also to anticipate that Wednesday is a holiday, and hopefully, we can complete by at least 5.30 p.m. next Tuesday.

Mr. Vice-President, I now beg to move that the Senate do now adjourn to Tuesday, 31st of July, 2001 at 10.30 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.41 p.m.