

Leave of Absence

Tuesday, November 30, 1999

SENATE

Tuesday, November 30, 1999

The Senate met at 10.05 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, leave of absence from today's sitting has been granted to Sen. Joan Yuille-Williams for the period November 30 to December 18, 1999.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MISS CARLENE BELMONTES

WHEREAS Senator Joan Yuille-Williams is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

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

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 30th day of November, 1999.”

Oath of Allegiance

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OATH OF ALLEGIANCE

Sen. Carlene Belmontes took and subscribed the Oath of Allegiance as required by law.

PARLIAMENTARY REFORM

Speaker's Letter

Mr. President: I have received the following letter from the hon. Speaker of the House of Representatives:

‘Reform of the Management Structure of Parliament

November 25, 1999.

Sen. the Hon. Ganace Ramdial
President of the Senate
Parliament
The Red House
Abercromby Street
Port of Spain.
Honourable President,

Joint Select Committee

At a Sitting of the House of Representatives held on Thursday November 18, 1999, the House passed the following resolution:

‘BE IT RESOLVED that a Joint Select Committee be established to consider and report on a White Paper on the Reform of the Management Structure of the Parliament;

BE IT FURTHER RESOLVED that this Committee be authorised to consider as part of its records, the work of the previous Committee appointed to consider this matter.’

On Thursday, November 18, 1999, the House also approved the following resolution:

‘RESOLVED that the following Members be appointed to serve with an equal number from the Senate on the Joint Select Committee established to consider and report on the White Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago.

Mr. Ramesh Lawrence Maharaj - Chairman

Parliamentary Reform

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| | | |
|-----------------------------|---|---------|
| Mrs. Kamla Persad-Bissessar | - | Member |
| Dr. Rupert Griffith | - | Member |
| Mr. Chandresh Sharma | - | Member |
| Mrs. Camille Robinson-Regis | - | Member |
| Mr. Martin Joseph | - | Member' |

These decisions of the House are forwarded for the attention of the Senate.

Yours sincerely,

Hon. Hector McClean, MP

Speaker of the House of Representatives''

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I wish to state that at the appropriate stage, I shall be seeking leave of this honourable Senate to move a motion in connection with the letter which you have just read.

PAPERS LAID

1. The Trinidad and Tobago Solid Waste Management Company Limited financial statements for the year ended December 31, 1998. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. The Petroleum Company of Trinidad and Tobago Limited financial statements for the year ended September 30, 1998. [*Hon. W. Mark*]
3. The Environmental Management Authority Annual Report 1998. [*Hon. W. Mark*]

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. Prof. Julian Kenny:

Queen's Park Savannah (Paving)

1. A. Could the hon. Minister of Agriculture, Land and Marine Resources inform the Senate of:
 - i. the approval procedures employed for paving the parade route in the Queen's Park Savannah;
 - ii. the extent of the area paved;

- iii. the cost involved;
 - iv. the source of the funds for the operations?
- B. Could the hon. Minister also inform the Senate whether:
- i. the paving was done to standards for roadways including normal foundations, curbing and drainage;
 - ii. any impact assessment was done;
 - iii. normal established tendering procedures were employed and if so, who the successful tenderer was?

If the answer to (iii) is in the negative, could the hon. Minister state who the contractor was and what are the general terms of the contract?

**Emperor Valley Zoo—Elephants
(Management of)**

2. A. Could the hon. Minister of Agriculture, Land and Marine Resources inform the Senate of:
- i. the estimated final cost of construction of the elephant enclosure at the Emperor Valley Zoo;
 - ii. the estimated date of completion of that facility;
 - iii. the numbers of staff trained to handle elephants and the costs of their training;
 - iv. the estimated monthly maintenance, including feed costs, of the elephant?
- B. Could the hon. Minister also indicate to the Senate whether there are plans to import a mate or companion for the gift animal or any other large mammals?

Consultancy Arrangements

3. A. Could the hon. Minister of Agriculture, Land and Marine Resources inform the Senate whether consultants were employed to delimit the proposed Maracas and Matura National Parks in Trinidad and the main Ridge Park National Park in Tobago?
- B. If the answer is in the affirmative, could the hon. Minister state:

- i. who the consultants were;
 - ii. the date, period, terms and cost of the consultancy;
 - iii. the source of funding for the consultancy;
 - iv. whether Government approved of the commendations of the consultancy?
- C. If the answer to (iv) is in the negative, could the hon. Minister state who was responsible for delimiting the proposed parks?

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, with your leave and the leave of the Senate, the hon. Minister of Agriculture, Land and Marine Resources has requested that the three questions be deferred until 1.30 p.m. this afternoon.

He is in South, and he has asked the Senate to facilitate him and have these three questions deferred to 1.30 p.m., or at a later stage of the sitting.

Questions, by leave, deferred.

**TRINIDAD AND TOBAGO EMERGENCY MUTUAL
AID SCHEME (INC'N) BILL**

Question put and agreed to, That a Bill for the incorporation of the Trinidad and Tobago Emergency Mutual Aid Scheme and for matters incidental thereto be now read the first time.

Bill accordingly read the first time.

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

Question put and agreed to.

**DEOXYRIBONUCLEIC ACID (DNA)
IDENTIFICATION (N0.2) BILL**

Bill to establish a legal framework wherein DNA forensic analysis may be used by the State for criminal investigation and prosecution. [*The Minister of National Security*], read the first time.

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

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move that we deal with Bills Second Reading at this stage of the proceedings.

Agreed to.

TOURISM DEVELOPMENT (NO. 2) BILL

[Third Day]

Order read for resuming adjourned debate on question [November 9, 1999]:

That the Bill be now read a second time.

Question again proposed.

The Minister of Tourism (Dr. The Hon. Adesh Nanan): Mr. President, today I am pleased to report that a small committee of Senators and officials of Government ministries held discussions under my chairmanship on the legislation before this honourable Senate—the Tourism Development Bill—and we have successfully concluded an amended Bill for consideration by Members. [*Desk thumping*] All the comments and queries of Members who had participated in the debate were taken into consideration and this has facilitated a comprehensive revision of the initial Bill.

I must express my profound gratitude to Members for their frank and invaluable contribution to this historic legislation and to the committee for offering their expertise so willingly. It was gratifying to witness the professionalism and goodwill displayed in our quest to refine the legislation and formulate a document which will be a landmark in the history of tourism development in Trinidad and Tobago.

Mr. President, a few Members asserted that this is a hotel development bill and not a Tourism Development Bill. However, I wish to remind Members that the proposed Bill is an “Act to facilitate the development of the Tourism Industry by providing to investors incentives and concessions and to make provision for matters incidental thereto.” This legislation is not intended to be a development plan.

In my earlier presentation, I had pointed out that this Bill was one component of Government’s strategy for development of the tourism industry. Government has commissioned the preparation of a national tourism policy paper as well as a five-year strategic plan which will guide the development of tourism in Trinidad and Tobago. Drafts of these documents are available.

Mr. President, I had sought to explain the sweeping changes that were incorporated in this legislation compared to the provisions available in the Hotel Development Act.

10.20 a.m.

Mr. President, this Bill proposes to extend incentives—now available to hotels only—to a vast number of projects which can be undertaken in the tourism industry. The broad groupings identified at Schedule 9: transportation services, dive operations, tourism infrastructure, convention centres, film making, cultural centres and theme parks. Based on this, it is not correct to say that the legislation is a hotel development bill.

Mr. President, I wish to identify some of the areas, which have been revised comprehensively by the committee. Definitions: from the list of amendments it can be seen that quite a few of the definitions have been redrafted to take account of comments of the various Members, for example, “bedroom”.

Mr. President, clause 3(3), tax benefit: here the tax benefit has been changed from a two-tiered structure to a single figure. Membership in an Association: this clause has been deleted to take account of concerns expressed about infringement of constitutional rights.

I wish to provide some clarification on the concept of the integrated resort development. Certain concessions are being proposed for the developer, in order to encourage him to provide certain infrastructure and amenities, which form an integral part of a large-scale project. To this end, the developer is allowed to sell some of the villas within the IRD in order to recover costs of such infrastructure and amenities. I must state clearly that the purchaser of any such villa will not benefit directly from the provisions of this Bill. However, the purchaser could share indirectly in the benefits obtained by the developer in the form of a lower cost price.

Mr. President, I wish to emphasize that Government is mindful of the need to link growth of the economy to the improvement of the quality of life of the citizens of Trinidad and Tobago. It is for this very reason that the matter of national objectives was incorporated into the Bill. Government is seeking to strike a balance between the provisions of incentives to investors and the maximization of benefits to our people. So, I hope that the Members of this honourable Senate appreciate Government’s philosophy for the development of the tourism sector.

Government is striving to improve the quality of life of our citizens and to ensure an equitable distribution of income. A few Members have expressed

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concern for the small man. You will notice that there is a specific provision, which encourages certain tourism projects to be owned and managed by nationals. In addition, the minimum criteria for accessing benefits under this legislation have been reduced to eight rooms.

All the speakers have expressed support for this legislation which facilitates development of the tourism industry. Government has taken into account Members' concerns about the drafting, and we are convinced that the revised Bill adequately addresses comments and queries. I am certain that all Members of this honourable Senate, and all persons who have contributed to the formulation of this legislation in some way, feel a sense of deep pride in being associated with this landmark legislation.

Mr. President, in Sen. Daly's contribution, he was very critical of TIDCO and it was very unfortunate. When Sen. Daly asks whether TIDCO just exists to have a ball, I do not think—with due respect to him—that the Senator comprehends the shadow of dismay he casts on these hardworking individuals. *[Laughter]* Anyone who closely and objectively examines the achievements of the tourism industry in the last few years will understand that they came only through the untiring efforts of the national tourism industry. If this were not so, then the tourism industry would have been rewarded many years ago. Instead, the bulk of awards won at the national and individual levels were only received in the last few years. TIDCO's promotion efforts have led to impressive increases in visitor and airline arrivals. We have witnessed an unprecedented increase in airlifts to our beloved Trinidad and Tobago.

In 1996, British Caledonia commenced service to Tobago; in 1997, Condor, a major German airline, commenced service to Tobago and added a second winter service in 1998; in 1996, American Eagle commenced service from Puerto Rico to Tobago and in 1998, to Trinidad; in 1998, British Airways commenced service to Tobago.

Mr. President, if Sen. Daly fails to recognize the achievements of the hardworking men and women in the national tourism industry, at least we have concrete and factual proof of the reward for their efforts. Not only have our tourism arrivals been consistently growing but in 1998, the hon. Prime Minister accepted the Caribbean Hotel Association Crystal Palm Award.

Sen. Daly: I wonder if the Minister could give us an assurance that those contracts with Condor, British Airways and British Caledonia were secured by the efforts of TIDCO and who were the personnel. Perhaps, the Minister might ask the Minister of Works and Transport before he answers. *[Laughter]*

Dr. The Hon. A. Nanan: Mr. President, not only our tourism arrivals have been constantly growing, but as I said, the hon. Prime Minister accepted the Caribbean Hotel Association Crystal Palm Award—

Sen. Mark: Definitely.

Dr. The Hon. A. Nanan:—which was presented to the Caribbean Government which, in the previous year, had done the most to develop tourism in its country. *[Desk thumping]* This year our National Culinary Team won gold at the Caribbean Culinary Federation's Annual Competition. *[Desk thumping]* *[Interruption]* Last year, the Caroni Bird Sanctuary was named as one of the top 25 nature spots in the Caribbean by *Travel Holiday Magazine*. TIDCO's website, one of the firsts to be developed by a national tourism organization, is now visited weekly by 20,000 individuals. *[Desk thumping]*

Sen. Mark: We have to tell them what the posse is doing.

Dr. The Hon. A. Nanan: Mr. President, our yachting industry is not simply due to mother nature, as the goodly Senator would like us to believe. *[Laughter]*. Why have the yachts chosen the latter half of the 1990s to visit Trinidad and Tobago in increasing numbers? What happened in the 1950s, 1960s, 1970s and 1980s?

Hon. Senator: They had hurricane then.

Dr. The Hon. A. Nanan: Was mother nature taking a nap? *[Laughter]* It is the combined efforts of the industry and TIDCO that have brought the yachts here. *[Interruption]* Sen. Daly referred to TIDCO as being another layer of bureaucracy, since this is tax legislation TIDCO has no business in it. The concept in the Bill is to allow TIDCO to guide both the local and international investor through the process required for obtaining approvals for benefits under this proposed Bill. This Government is not about bureaucracy; it is about providing support. This Government is not about increasing hurdles; it is about removing them.

Sen. Mark: Definitely, definitely.

Dr. The Hon. A. Nanan: After close consideration of the best models within the region and the world for helping to guide investors, we have suggested that TIDCO, the Tobago House of Assembly and the Ministry of Tourism work hand in hand to ensure that the process wished for by the investor is completed to the satisfaction of the investor, so that the people of this country benefit, and ultimately jobs are created.

The tourism industry is the single largest growing industry in the world. Figures quoted from the World Tourism Organization: international tourism

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arrivals worldwide estimated to have grown by 41 per cent to 620 million at the end of 1997. Tourism accounts for 10.7 per cent of the world's employment and 10.9 per cent of the world's gross domestic product. By the year 2010 it is projected to be 15 per cent employment and 15 per cent gross domestic product.

As I stated, Government has identified tourism as a sector which offers great potential for facilitating the diversification of the domestic economy. Over the last three years there has been a steady increase in hotel projects in Trinidad and Tobago. From 1996 to July 1999, there were 36 approved hotel projects; capital expenditure—\$1.259 billion; permanent jobs created—2015; in 1997 stay-over visitor arrival—324,293, an increase of 58,393 or 22 per cent over 1996; at the end of 1998, 347,693.

Mr. President, the tourism sector demonstrates significant growth but there must be a mechanism to ensure the maintenance of this momentum. I am pleased to announce that originating from a proposal put forward by the Trinidad and Tobago Hotel and Tourism Association, Cabinet has agreed that the Ministry of Tourism will be provided with an annual budgetary allocation equivalent to three per cent of the proceeds from the letting of hotel accommodation from the previous financial year; that is, 40 per cent of the hotel room tax, for the funding of marketing, promotion and training.

10.30 a.m.

Programmes related to the hotel industry: Mr. President, the hotel room tax for the fiscal year 1998—[*Interruption*]

Sen. Prof. Spence: Mr. President, I wonder if the hon. Minister could explain that. He said the tax goes to the Ministry, but my understanding is that TIDCO does the promotion. So why is it going to the Ministry and not TIDCO?

Dr. The Hon. A. Nanan: I will explain, Mr. President. The hotel room tax for the fiscal year 1998/1999 amounted to approximately \$24 million, hence the allocation approximates \$7.2 million. In the 1999/2000 Budget, approximately \$2 million has been provided to finance such activities. Therefore, based on the proposal of 3 per cent of the hotel accommodation tax collected annually, there is a shortfall of approximately \$4 million. Cabinet has agreed also, that subject to the availability of funds, the allocation will be supplemented by \$4 million.

Mr. President, this legislation is about creating jobs for the people of Trinidad and Tobago, for no other industry than the tourism industry is so well poised to provide much-needed jobs to our citizens. I therefore ask that hon. Senators

consider the facts, stop seeking out ghosts and support the Government in this historic piece of legislation to improve the quality of life of our citizens.

Mr. President, I beg to move that the Bill entitled, “an Act to facilitate the development of the Tourism Industry by providing to investors incentives and concessions and to make provision for matters incidental thereto”, be now read a second time.

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: Hon. Senators, this is a Bill that contains a Preamble, 44 clauses in 5 Parts and 10 Schedules. We shall go into the clauses before the Preamble. We will deal with that last. I think I should point out also that we will be dealing with the proposed amendments to the original Bill that was introduced last week and not the amended one that was circulated today, because all the amendments pertain to the Bill which we debated last week.

Sen. Dr. St. Cyr: Mr. Chairman, there was a foolscap-length version and a quarto-length version. Could we understand which version we are to use? I understand there are slight differences.

Mr. Chairman: There is a Bill which has at the top, “AMENDED DRAFT”. We are not dealing with this.

Sen. Prof. Spence: No. The last time, Sir, there were two versions floating around and I think the foolscap version is the correct one. Unfortunately, there was another version floating around. So it is the foolscap version which is correct. The answer to the Senator's question is that the foolscap version is the correct one.

Mr. Chairman: Thanks. So it is the foolscap version which is the correct one.

Sen. Daly: Mr. Chairman, can I ask another question?

Mr. Chairman: Yes.

Sen. Daly: Can we take it, then, that the amended draft expresses the proposals that are in the former list of amendments?

Mr. Chairman: Yes, the Minister confirms that.

Sen. Daly: If we want to see how it reads, we can look at the amended draft?

Mr. Chairman: Yes.

Sen. Daly: Thank you, Sir.

Clause 1 ordered to stand part of the Bill.

10.45 a.m.

Sen. Daly: Mr. Chairman, have we dealt with the Preamble?

Mr. Chairman: We are dealing with that last.

Sen. Daly: I am sorry.

Clause 2.

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

Mr. Chairman: There are proposed amendments by the Minister, Sen. Daly and one by Sen. Prof. Ramchand. Because of the number of changes, I think we should go down as the Minister has proposed.

Dr. Nanan: Mr. Chairman, we agree with the amendment circulated by Sen. Prof. Ramchand. The amendment circulated by Sen. Daly, we want to keep the definition of "tourism".

Mr. Chairman: Just identify where it is on your proposed list of amendments. Which one is it, Mr. Minister?

Dr. Nanan: Yes. Sorry. The definition of "tourist", we want to accept but modify as follows:

"tourist" means a person who travels to Trinidad and Tobago for pleasure or business or who travels within Trinidad and Tobago for pleasure.

Sen. Daly: Mr. Chairman, we still have to discuss "tourism" when we get there. We have to deal with "tourism". I accept the modification for "tourist".

Mr. Chairman: For ease of orderliness, because of the large number of proposed amendments, I suggest that we start from 2A going down the road, until we arrive at any other proposed amendments and we will deal with those, because the question has to be put for each one of the proposed amendments.

Sen. Dr. St. Cyr: Mr. Chairman, just a comment on the Minister's accepting Sen. Daly's amendment with a change. Does it mean that businessmen are now tourists?

Mr. Chairman: Senator, we will deal with that when we reach the definition of "tourism" on the proposed list of amendments, because the Minister has also

proposed an amendment. We will deal with that at the appropriate stage. It is quite down the line.

All right. We are on clause 2A. Minister.

Dr. Nanan: Mr. Chairman, I propose the following amendment:

Delete the definition of “Agency”.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment:

In the definition of “approved loan”, renumber subparagraph (iv) as (iii) and delete subparagraph (iii).

Sen. Dr. St. Cyr: Logically, Sir, we have to delete subparagraph (iii) first and then renumber subparagraph (iv) as (iii).

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment:

Delete the definition of “bedroom”.

Sen. Dr. St. Cyr: I have a difficulty here, Sir, since “bedroom” features in the Bill. We would have to say what it is.

Dr. Nanan: Wherever “bedroom” was in the Bill, it is now replaced by “room”.

Sen. Dr. St. Cyr: Does that include Schedule 1 which says “bedroom furnishings and fixtures”?

Dr. Nanan: We will have to amend that Schedule, but wherever “bedroom” appears, it will be amended to be “room”.

Sen. Dr. St. Cyr: So that will be “room furnishings and fixtures”?

Dr. Nanan: The amendment will say “room furnishings and fixtures”.

Mr. Chairman: I think it would be wherever “bedroom” appears, it is replaced with “room”.

Sen. Dr. St. Cyr: Well, then that begs the question: Have we defined “room”?

Sen. Mark: Yes, we have.

Mr. Chairman: “Room” has been defined here?

Sen. Mark: Yes, later on.

Mr. Chairman: If “room” is defined later on, then the proposed amendment can stand.

Delete the definition of “bedroom”.

Sen. Daly: Could we get another copy of the amendment draft?

Mr. Chairman: Yes, under (o), Dr. St. Cyr, is that okay? Because “room” is defined under (o) in the proposed list of amendments.

Sen. Dr. St. Cyr: And it looks as if a “room” is a bedroom, Sir.

Mr. Chairman: Sleeping room.

Sen. Dr. St. Cyr: Thank you, Sir.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, the amendment is as follows:

In the definition of “boatyard” delete the words “small craft” and substitute the words “marine craft”.

Sen. Montano: Mr. Chairman, that should be “small ships” because the Bill has the words “small ships” and not “small craft”. We cannot delete the words “small craft”.

Dr. Nanan: Okay. Mr. Chairman.

Sen. Prof. Ramchand: Mr. Chairman, just for my edification, why “ship” rather than “craft”? Why is “craft” not suitable?

Sen. Montano: What is in the original Bill are the words “small ships” and that is what we are removing, not “small craft”. “Small craft” was not in the original Bill, so we cannot delete what was not there. It is just a typo really.

Sen. Prof. Ramchand: Thank you.

Question, on amendment, put and agreed to.

11.00 a.m.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2E:

In the definition of “camp-site” delete the words “destined to” and substitute the words “designated for”.

Sen. Prof. Kenny: Mr. Chairman, is there a good reason for hyphenating the word “camp-site”? We are dealing with the English language and there are problems further on.

Mr. Chairman: We will treat it as a typographical error and dehyphenate it.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2F:

In the definition of “company” delete the word “incorporated” and substitute the word “registered”.

Sen. Hamel-Smith: Mr. Chairman, it should be the first reference to “incorporated”, because the word is there in the second and third lines.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2G:

Delete the definition of “construction” and substitute the following new definition:

“‘construction’ means the erection of a new structure to form a tourism project or the expansion or alteration and renovation of an existing structure to form a tourism project”.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2H:

Insert after the definition of “corporation” a new definition of “cultural centre” as follows:

“‘cultural centre’ means a recreational space for the showcasing of culture”.

Mr. Chairman, there is an amendment to the definition of “cultural centre” that is circulated by Sen. Prof. Ramchand which we would entertain.

Sen. Prof. Ramchand: Mr. Chairman, I propose the following amendment to clause 2H also:

After the definition of “corporation” insert the following definition of ‘cultural centre’ to replace the definition proposed in the amendment by the Minister:

“‘cultural centre’ means a specially prepared space for the preservation, display or performance of items of culture”.

Mr. Chairman: Minister, are you withdrawing your proposed amendment and accepting Sen. Prof. Ramchand's?

Dr. Nanan: Yes.

Mr. Chairman: Again, for orderliness, the Minister's proposed amendment is withdrawn and, I therefore propose Sen. Prof. Ramchand's proposed amendment.

Sen. Dr. St. Cyr: Mr. Chairman, I am wondering whether the phrase "specially prepared" would not unnecessarily restrict.

Sen. Prof. Ramchand: I think "specially prepared" would leave it open for applications for grants to prepare the context. If one just said a space without specifying "specially prepared", one could just block off a piece of the savannah, again. *[Laughter]*

Mr. Chairman: Is that all right, Dr. St. Cyr?

Sen. Dr. St. Cyr: Yes.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2I:

In the definition of "dive lodge" delete the words "is heavily dependent on" and substitute the word "includes".

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2J:

Insert after the word "eco-lodge" the following new definition:

"existing tourism project' means a tourism project on which construction, expansion or alteration commenced on or after August 3, 1995;"

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2K:

In the definition of "guest house" delete the word "bedrooms" and substitute the words "separate rooms each offering accommodation";

Sen. Prof. Spence: Mr. Chairman, could I ask a question on that one? Under the definition of "rooms" it says that each room is provided with toilet and bathroom facilities. Does that definition mean that each separate room should have its toilet and bathroom facilities, and does that also apply to a guesthouse?

Sen. Prof. Ramchand: Mr. President, just to elaborate that point, I want to know whether he is asking that each guesthouse should have eight rooms as defined under room?

Dr. Nanan: Mr. Chairman, in the definition of “room”, which is coming up next, it means:

“the sleeping room of a tourism accommodation facility that is of a specified minimum size, furnished, includes bathroom and toilet facilities and for which daily house keeping services are provided”;

Sen. Prof. Spence: Mr. Chairman, what I was asking is whether that means that each room under that definition has to have its own toilet and bathroom.

Mr. Chairman: That is what I understood your question to be.

Dr. Nanan: Mr. Chairman, we are not saying that each room must have a bathroom.

Question, on amendment, put and agreed to.

Sen. Daly: May I have your leave, Mr. Chairman. I want to raise something about “golf course”. Can I just ask your leave to refer to it when we get to my amendments?

Mr. Chairman: Yes.

Sen. Daly: Thank you, Sir.

Sen. Hamel-Smith: Mr. Chairman, I wonder if I could crave your indulgence. There was a suggested amendment that was not picked up under “golf course”. I wonder if we could revert to the definition of “golf course”?

Mr. Chairman: We have not reached there yet.

Sen. Hamel-Smith: No. We have reached guesthouse, so we have passed it.

Mr. Chairman: There was no proposed amendment to “golf course”? We could come back to that when we finish with the written proposed amendments.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 2L:

In the definition of “hotel” insert after the word “facilities” in the last line, the words “, and the supplying of such services or the carrying on of such activities as the Minister may declare by Order,”

Sen. Montano: Mr. Chairman, I have a problem with this. The definition of “hotel”, as I indicated in my contribution, as well as last week, in my opinion, is very poorly drafted and really does not set out what we are trying to achieve. During the meeting we had on Friday, there was some discussion as to what it should include, and I had referred Members to the previous Hotel Development Act, section 39, where there was a pretty good definition of what a hotel was.

We talked about that, and then someone suggested that we leave it as it is and make an amendment so that the Minister could grant an approval for certain facilities that were not necessarily covered by the definition. I went along with that on my understanding that it was, in fact, going to be part of the approval of the project. What this is now saying is that the Minister has to make an order setting out what a hotel is going to be. If he has to do such an order, why do we not just do that here and now and put down what a hotel is and simplify it? We could go back to section 39.

11.15 a.m.

Sen. Daly: Mr. Chairman, while the Minister is consulting, I would like to say that we have not been given any reason for changing the well-trying definition of “hotel” in the Hotel Development Act. Every time we change these things, more jargons and more posse language. What it means, on an ongoing basis—I think they mean regular basis. “Ongoing” is a jargon word. I only pounce on that because we have not been given any good reason for not simply taking the definition of “hotel” that is in the Hotel Development Act.

Further:

“such activities or the carrying out of such activities as the Minister may declare by Order.”

That means, for example, the Minister could, by Order, declare a casino as part of a hotel. I have a problem with that part of this Bill as well. We really need a reason why we are not simply lifting the definition of “hotel”. I know that TIDCO has to justify their existence but what is the reason?

Dr. Nanan: Mr. Chairman, the only reason that it was put in this was because of the length of the definition in the original Act. If you wish, we will concede if you want to go back to the original definition in the Hotel Development Act, if that is okay with you.

Sen. Daly: I am very gracious. [*Interruption*]

Dr. Nanan: But that is for gains or profits. There is a definition of “hotel”.

Sen. Montano: You are including the type of services here and that section sets out the types of services that we are talking about. Therefore, I am trying to compare “like” with “like”.

Dr. Nanan: Would you agree to the definition of “hotel” under the Hotel Development Act?

Sen. Montano: It is very short; it is only two lines. I do not recall exactly what it says. The Hotel Development Act was drafted in such a way so that the definition of “hotel” was loosely drafted and then it was tightened up in section 39 with regard to the fiscal incentives. If you want to go the same route, you can use a small definition of “hotel” as it is in the Hotel Development Act but you would, later on, have to do the same thing, to include which services of the hotel are going to be included and excluded.

Dr. Nanan: Would you agree to this definition of “hotel” in the Hotel Development Act?

Sen. Montano: Provided that you also include a section that is identical to section 39, because that is what is going to give you your fiscal incentives: you know what activities are going to be captured. Unless the draftsmen can show me how it is that we will be fairly certain that all the activities of a hotel, under this Bill, will be caught by this Act.

Dr. Nanan: Section 39 refers only to hotels, what will happen to the other projects?

Sen. Montano: At this point we are only talking about hotels.

Dr. Nanan: We agreed that section 39(f), in the Hotel Development Act, would have been lifted out, and that is what we did: we lifted it out and put it into the definition section. That is what we discussed in the committee.

Sen. Montano: That was not quite my understanding. My understanding was that it was going to be modified in such a way so that each application could be dealt with on its own. If you are not going to list the specific activities of the hotel, then if in fact, a hotel had activities that were not covered by this definition, that the Minister could, in fact, grant that approval. That is what I understood in the meeting. That was my understanding. That is what I am trying to do here. If it is that you want to shorten the definition of “hotel” and to parrot what is in the Hotel Development Act and you can assure me that as a result of that, any legitimate activity of the hotel will be caught by this legislation and will be eligible for the tax benefits, then I do not have a problem. The fact of the matter is, in the Hotel Development Act, that problem was anticipated and they set out, then, clearly what the activities of the hotel would be, that would be subject to the tax exemptions.

Sen. Mark: Let us defer that particular one for behind-the-chair discussions and we will proceed.

Sen. Montano: No problem.

Dr. Nanan: Mr. Chairman, I beg to move the following amendment:

Delete the definition of “marina” and substitute the following new definition:

“‘marina’ means a non-residential establishment providing berthing facilities of a minimum of ten slips, or such other number as approved by the Minister, showers and change facilities, and a disposal unit or receptacle for sewerage treatment or waste from visiting vessels; concrete pads for maintenance activities, and a receptacle for recycling oil, glass and batteries;”

Sen. Cuffy Dowlat: Mr. Chairman, it is merely typographical but it might be “for a minimum of” rather than “of a minimum of”.

Sen. Montano: Mr. President, that is still a bit of a problem, we come back to the use of the word “slips” which is a non-word. What we are talking about here is “for a minimum of ten marine craft” that is what we are trying to say here: “for a minimum of ten marine craft”. There are several marinas down in Chaguaramas that do not have what is loosely used as “slips”. There are no slips, just a big long jetty which is not a slip. There is also mooring facilities. What we want is berthing facilities for a minimum of ten marine craft, that is what you are trying to say.

Dr. Nanan: But we agreed to the word “slips” in the meeting.

Sen. Montano: I never agreed to that. This is a non-word. A slip is a slipway. This may be Trinidad and that issue is down in Chaguaramas, but in a court of law, no one is going to find what a definition of a slip is.

Mr. Chairman: It is in the dictionary.

Sen. Montano: Not in my dictionary, Sir. I have checked the one in Parliament as well and I did not find it.

Mr. Chairman: I know that there is.

11.25 a.m.

Sen. Montano: What we are talking about is a minimum of ten marine craft. If not, somebody tell me what a slip is. Explain to me what a slip is. Tell me what a slip is. Tell me what it looks like.

Dr. Nanan: Mr. Chairman, the word “slip” is not slang. All checks with the marine industry indicate that the word “slip” is correct. A “slip” is an inwater berth for a small vessel. On the other hand, “slipway” is more of a historic term, and means, “one of the methods of removing a boat out of the water”.

Sen. Montano: So, Mr. Chairman, if I took you to a long concrete jetty, could you tell me how many slips there are there? Could somebody tell me that? Because that is what you are going to be asked to do. That is exactly what you are going to be asked to do. Coral Cove has a jetty and the one next to it—I do not know what it is called—has a long jetty, but no identifiable fingers or anything of the sort. So tell me what a slip looks like?

Mr. Chairman: What is the suggested amendment?

Sen. Montano: The intention is very simple. They want to have a minimum of ten boats, yachts, or marine craft to be able to tie up in some way in order to qualify the marina as a marina. So what we are talking about is the berthing of ten marine craft, whether it is a slip or a berth or whatever it is, is not really significant; it is the mooring of ten marine craft. We are trying to get it right here. I just want to move on a bit.

Mr. Chairman: Is that the intention of the legislation, to berth ten craft? Does it make a fundamental difference? Does the definition fit into what we want to do?

Sen. Montano: All right. I just want to move on a bit.

Mr. Chairman: Just a minute. Before you move on. The suggested amendment is agreeable. So it would be “berthing facilities for a minimum of ten marine craft”.

Sen. Montano: Okay. It goes on: “and such other number as approved by the Minister, showers and change facilities...” Now, we started talk about the disposable unit and the sewerage. I think the wording here is poor and I suggest this: “and the receptacle for disposal or treatment of sewage”. You got that?

Dr. Nanan: You want to repeat that?

Sen. Montano: “A receptacle for the disposal or treatment of sewage”, thereby making a distinction between the two functions. One is just a receptacle and one is actually a treatment unit. The way we have it worded here; we have actually confused what the intention is.

Dr. Nanan: Yes.

Sen. Montano: I also suggest instead of using the words “concrete pads”—again, I mentioned this on Friday, nobody has any concrete pads—we simply use the words “yard space”.

Dr. Nanan: Okay.

Sen. Montano: Thank you.

Mr. Chairman: You want to restate your proposed amendment fully so that I can put it to the Senate?

Sen. Montano: Okay.

“Marina” means a non-residential establishment providing berthing facilities for a minimum of ten marine craft or such other number as approved by the Minister, showers and change facilities, and a receptacle for disposal or treatment of sewerage or waste from visiting vessels; yard space for maintenance activities, and a receptacle for recycling oil, glass and batteries.

Mr. Chairman: Yard space for—

Sen. Montano: Maintenance activities.

Mr. Chairman: And a receptacle. Thank you.

Sen. Montano: Thank you, very much.

Mr. Chairman: I am putting the question, so if you would just follow me please to make sure that I have it correctly. Hon. Senators, the question is:

Delete the definition of “marina” and substitute the following new definition:

“Marina” means a non-residential establishment providing berthing facilities for a minimum of ten marine craft, or such other number as approved by the Minister, showers and change facilities, and a receptacle for the disposal or treatment of sewerage or waste from visiting vessels; yard space for maintenance activities and a receptacle for recycling oil, glass and batteries.

Is that it, Senator?

Sen. Montano: Yes.

Sen. Prof. Kenny: Mr. Chairman, you have pronounced the word correctly; it is “sewage”. “Sewage” is the waste; “sewerage” is the piping. So you cannot use that word “sewerage”, it has to be “sewage”. There is a difference.

Mr. Chairman: That is all right?

Dr. Nanan: Yes.

Mr. Chairman: It is “sewage”. So we have changed the spelling to match the pronunciation. I have already proposed the question.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I beg to move the following amendment:

Delete the definition of “recreational space/special events” and substitute the following new definition:

“recreational space” means space utilised primarily for recreation and entertainment of tourists.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I beg to move the following amendment:

Insert after the definition of “recreational space” the following new definition:

“room” means the sleeping room of a tourism accommodation facility that is of a specified minimum size, furnished, includes bathroom and toilet facilities and for which daily house keeping services are provided.

Sen. Prof. Ramchand: Mr. President, just a minor adjustment.

“Room” means sleeping room of a tourism accommodation facility which is of a specified minimum size“,” is furnished“,” includes bathroom and for which...

If you have “for which” down below, you have to have a “which” before, and the word “is”—is to be inserted before the word “furnished”.

Mr. Chairman: This is grammatical.

“room” means the sleeping room of a tourism accommodation facility which is of a specified minimum size, is furnished, includes bathroom and toilet facilities and for which daily house keeping services are provided.

Is that okay?

Sen. Dr. St. Cyr: Mr. Chairman, just a clarification. Does this imply that the bathroom and toilet facilities are *en suite* in the room? Does this imply that?

Dr. Nanan: I am informed that it is just for access to bathroom and toilet facilities.

Mr. Chairman: Hon. Senators, the question is:

Insert after the definition of “recreational space” the following new definition:

“room” means the sleeping room of a tourism accommodation facility which is of a specified minimum size, is furnished, includes bathroom and toilet facilities and for which daily house keeping services are provided.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I beg to move the following amendment:

Delete the definition of “theme parks and cultural centres” and substitute the following new definition:

“theme parks” means recreational space having a definable theme where such a theme ranges from history to fantasy, providing a range of activities for entertainment.

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, I beg to move the following amendment:

Delete the definition of “tourism” and substitute the following new definition:

“tourism” means the sum of activities involving the interactions of tourists, business suppliers, host government and host communities.

Mr. Chairman: There is a proposed amendment by Sen. Daly also.

Sen. Daly: Yes. I am not withdrawing mine. [*Inaudible*—means, the activities of tourists.

Dr. Nanan: Mr. Chairman, this is a definition coming from MacIntosh and Goller.

Sen. Daly: What is that?

Dr. Nanan: They are the ones who—

Sen. Daly: Are they lawyers or consultants?

Dr. Nanan: They are tourism specialists.

11.40 a.m.

Sen. Daly: Well, they do not know anything about law.

May I explain my problem. This is exactly what I have been fighting against; going to these foreign consultants or any consultants who do not know anything about passing legislation or legal certainty. Now, let us see what is wrong with this—whoever Goller is; “tourism” means the sum of these activities. Perhaps you could ask the parliamentary draftsman what will happen if somebody has a tourism project? Well, I do not know what a host community is, you will have to ask Goller. That is exactly what I am fighting against!

Suppose somebody has a tourism project that has an interaction between a tourist and a supplier, but not between a tourist and a government—it is not a

project anymore—the way this definition is structured, presumably, your tourism project will have to have all of these things in order to be a project. That is the problem with it. Do not worry with Goller. Legislation requires that you use precise words that are precisely understood; and if we agree on a definition of what is a tourist, then all we have to say, in logic—I do not know if the Minister is paying these consultants for logic—if we agree on a definition of tourist, then what is wrong with saying, tourism means the activity of tourists. What is more important? Getting it right, or telling Goller we followed them? So either way it is wrong.

First of all, it means that you disqualify everything you do, because some lawyer would say that the sum of these activities means if anyone of them is missing from the interaction—they are *interruptus*. And then if we agree on a definition for tourism, as a matter of logic, you simply say tourism means the activities of tourists. That is why we are broke. We have paid a consultant to write this?

Dr. Nanan: Mr. Chairman, we will defer that and continue.

Sen. Daly: Thank you, Minister, you are most gracious. Take local advice. Why am I [*Inaudible*] Let Goller do it!

Mr. Chairman: “Q” is deferred.

Dr. Nanan: Mr. Chairman, delete the definition of “tourist” and substitute the following new definition:

“tourist” means a person who travels within the same country or to another country for pleasure or business;”

Question, on amendment, put and agreed to.

Mr. Chairman: There is a proposed amendment by Sen. Daly.

Sen. Daly: I am pursuing mine.

Dr. Nanan: Mr. Chairman, I wish to withdraw and accept Sen. Daly’s amendment with a modification:

“tourist” means a person who travels to Trinidad and Tobago for business or pleasure, or one who travels within Trinidad and Tobago for pleasure.”

Mr. Chairman: Sen. Daly, is that all right with you in terms of—?

Sen. Daly: Yes, Sir.

Mr. Chairman: I think Sen. Mahabir-Wyatt has been trying to say something.

Sen. Mahabir-Wyatt: Mr. Chairman, I withdraw my comment because this has taken care of my objection.

Mr. Chairman: All right.

Sen. Dr. St. Cyr: Mr. Chairman, I have a little difficulty because this suggests that all non-Trinidadian businessmen coming to Trinidad and Tobago are now tourists. Is that what we agreed to?

Dr. Nanan: Mr. Chairman, there are what we call niche markets with respect to meetings and conventions for tourism purposes.

Sen. Dr. St. Cyr: Mr. Chairman, if I may pursue the point. How then do you distinguish a businessman who has come straight on business? Would he be treated as a tourist? Do we want to make a distinction between business travel and tourist travel?

Dr. Nanan: You see, Sen. Dr. St. Cyr, one could also come as a businessman and be involved in tourist activities.

Sen. Daly: That is the virtue of a mixture. Well-known words. Goller does not know this, but we have this question of law and fact. The parliamentary draftsman would know that using the word “mixed” is acceptable legal language that has stood the test of time. That is the benefit of using the word “mixture” of business and pleasure. So if they come for a convention, or if the Lloyds underwriters came to Tobago to review their premia, then we do not have a problem.

Dr. Nanan: I am advised by the draftsman that a person could come for business or pleasure.

Sen. Daly: If a foreign investor comes to twist the Minister of Energy’s arm—I am speaking hypothetically—which has no pleasure in it for either party—does that make him a tourist?

Dr. Nanan: Sen. Daly, the definition is sufficiently wide.

Sen. Daly: I am comfortable with it, this is why I chose a mixture.

Mr. Chairman: But in the proposed amendment to yours the word “mixture” is not included.

Sen. Daly: No Sir, I have accepted that. I was just explaining why I chose it.

Mr. Chairman: Hon. Senators, the question is, shall I say, the Minister's proposed amendment is withdrawn and the new proposed amendment by Sen. Daly is as follows:

"Delete the definition of "tourist" and substitute the following new definition:

"tourist" means one who travels to Trinidad and Tobago for business or pleasure or one who travels within Trinidad and Tobago for pleasure."

Question, on amendment, put and agreed to.

Dr. Nanan: Mr. Chairman, delete the definition of "tourism project" and substitute the following new definition:

"tourism project" means a project as set out in Schedules 2, 5 and 6 and involves activities listed in Schedule 4;"

11.50 a.m.

Mr. Chairman: We have come to the end of the Minister's proposed amendments. I think there was something Sen. Daly wanted to raise on the definition of "golf course".

Sen. Daly: Mr. Chairman, my definition of "golf course" comes back to using non-legal drafting. On page 3 it says:

"'golf course' means a course with a minimum of 9 holes and such other golfing amenities as are included in Schedule 3;"

When we look at Schedule 3, I do not know whether the reference to Schedule 3 is deliberate, or whether we mean Schedule 2 which has the important requirement—although in jargon language—that the golf course must be open to the public.

What I would suggest, is that we define "golf course" to mean a course with a minimum of 9 holes open to tourists and to the public. I am sorry it is so simple but—

Dr. Nanan: I will accept that.

Sen. Daly: Thank you very much, you are most gracious.

Sen. Hamel-Smith: Mr. Chairman, there was some discussion, and I thought agreement, that the definition would also be expanded to include after the words "9 holes", the words "or a full-scale miniature golf course".

Mr. Chairman: Let me see if I have the proposed amendment correct so I can put it. “‘Golf course’ means a course with a minimum of 9 holes or a full-scale miniature golf course open to tourists and to the public.”

Sen. Cuffy Dowlat: Mr. Chairman, you cannot have a full-scale miniature golf course. You can either have a golf course, a miniature golf course, or a full-scale golf course.

Mr. Chairman: Sen. Hamel-Smith, have I caught your proposed amendment?

Sen. Hamel-Smith: We should leave the word “scale” out and say, “a full miniature golf course”. Also, under Sen. Daly’s amendment, I suggest the words “and/or the public” rather than having it open to the tourists and the public. One may find a course attached to a hotel.

Sen. Prof. Spence: That seems to be a very major change. Does that mean that there can be hotel golf courses that are not open to the public? Is that what we are saying?

Mr. Chairman, could I have an explanation as to what this means?

Mr. Chairman: It remains as Sen. Daly has proposed. I shall now put the question.

Dr. Nanan: Mr. Chairman, I beg to move that the definition of golf course be amended as follows:

“‘Golf course’ means a course with a minimum of 9 holes or a full miniature golf course and open to tourists and to the public.”

Question, on amendment, put and agreed to.

Mr. Chairman: We had deferred two items on Schedule 2, the definition of the words “hotel” and “tourism”.

Sen. Daly: May I say what I have done with the word “hotel”, Sir?

Mr. Chairman: Yes.

Sen. Daly: I have asked the staff to take the definition of the word “hotel” contained in the definition section, and section 39 of the Hotel Development Act and blend them. They are typing it now, so I do not know if you would like to defer it any further.

Mr. Chairman: As soon as it comes we will deal with it.

We have to go to the definition of the word “tourism”.

Dr. Nanan: Mr. Chairman, there is a suggestion that we delete the definition of “tourism”.

Sen. Daly: Great.

Mr. Chairman: Are you withdrawing the proposed amendment?

Sen. Daly: I assume that would not create difficulties with the expression “tourism development project”.

Dr. Nanan: That is defined.

Sen. Daly: Thank you, Sir.

Mr. Chairman: Sen. Daly, in light of the Minister’s withdrawal, what about yours? Are you withdrawing?

Sen. Daly: I withdraw mine.

Mr. Chairman: Both proposed amendments to the definition of the word “tourism” are withdrawn.

Sen. Prof. Spence: We have to propose an amendment to delete it.

Mr. Chairman: We had already discussed it.

Sen. Prof. Spence: It would have to be a proposal by deleting the definition of the word “tourism” otherwise it is there. You have withdrawn the two amendments, so if you want to delete the original definition, you have to make such a proposal.

Dr. Nanan: Mr. Chairman, I propose that the definition of the word “tourism” be deleted.

Question put and agreed to.

Mr. Chairman: Shall we move on while we are waiting on Sen. Daly’s proposed amendment? We will move on to clause 3 while we await Sen. Daly’s proposed amendment.

Dr. Nanan: Mr. Chairman, I beg to move that clause 3 be deleted and substitute the following clause:

“Tax benefit 3.(1) For the purpose of encouraging the development of the tourism industry in Trinidad and Tobago the Minister may confer any of the tax

benefits described in subsections (3) and (4) on owners or operators, as the case may require.

- (2) In conferring the tax benefits referred to in subsection (1) the Minister shall have regard to the amount of capital invested by an owner or operator and the consequent financial risk as well as the measure of contribution that the owner or operator has made or is likely to make to the sustainable development of the tourism industry in Trinidad and Tobago and the achievement of the National Tourism Objectives.
- (3) The tax benefit which the Minister may confer on an owner or operator when an approved tourism project results in the creation of a new tourism project or the expansion of an existing tourism project, shall be a tax exemption not exceeding seven years in respect of gains or profits from the approved tourism project.
- (4) In addition to the tax relief mentioned in subsection (3) the following tax benefits may, subject to Part 4, be granted during the period that a tourism project is an approved tourism project:
 - (a) a carry-over from a tax exemption period, if any, of any loss arising out of the operation or renting of an approved tourism project; and
 - (b) a tax exemption in respect of interest received on an approved loan used for an approved tourism project.
- (5) The owner or operator of an approved tourism project who receives a tax exemption under subsection (3) shall place in a separate account all gains or profits that

are tax exempt and if the owner or operator is a company and pays a dividend to a non resident shareholder out of the aforementioned gains or profits, the dividend so paid shall be exempt from tax if the recipient is not liable to tax in respect of that dividend in the country in which he is a resident.

- (6) The Minister may, by Order, amend the amount of the capital expenditure referred to in this section.”

Question put and agreed to.

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

Sen. Montano: Mr. Chairman, I have two comments on clause 3(5). This is where we dealt with the question of the tax relief on dividends to a non-resident shareholder. I do not know why the following words “if the recipient is not liable to tax in respect of that dividend in the country in which he is a resident” were included. I do not know why we have put that in. We are dealing here with the tax laws of Trinidad and Tobago. I do not see that has anything to do with it. That is a matter for double taxation rules.

12.05 p.m.

Sen. Marshall: Senator could you please repeat that? I am trying to find it. I remember a comment on that clause.

Sen. Montano: Clause 3(5), the last two lines. This is the proposed amendment.

Mr. Chairman: From “if” to “resident”?

Sen. Marshall: I would like to support Sen. Montano’s proposed amendment which I am sure is to delete the last aspect of that sentence. There is absolutely no way a taxing authority would know whether—the recipient of that money—what his personal circumstances are with respect to his receipts of any other worldwide income. That adds nothing to the value of this Bill.

Sen. Montano: Absolutely.

Sen. Dr. St. Cyr: Mr. Chairman, I would have been inclined to favour retention of the phrase, in the circumstance that if there is a double taxation treaty

and dividend in the hand of the recipient would attract tax in his resident country, the tax would be better so far as we are concerned and accredit him over there against such tax paid here. I would have been inclined to include those last words, which it is being proposed we delete.

Sen. Montano: Mr. Chairman, I think there is a practical problem as Sen. Marshall indicated as to how we would determine what is his personal tax situation. That is placing an onus on the Inland Revenue here that is going to cause all kinds of problems. While I share the view, I think that it is unworkable. It is just not workable.

Dr. Nanan: Mr. Chairman, this was put in here in respect of the non-resident because if he is being taxed in his country, we might as well tax him here and when he files a return in his country, he will get credit for the tax that was taken out here. That is the reason that was put in.

Sen. Montano: That is what Dr. St. Cyr is saying but as Sen. Marshall said, we do not really know what is his tax position. What we are trying to do is create a climate whereby the profits that are invested would be free of income tax in this jurisdiction. By putting this thing in here we are placing an onus to pay tax.

Sen. Prof. Spence: Mr. Chairman, what happens after the seven years? He still has to pay tax. So the difficulty that is being pointed to here will arise at sometime. If you can do it after seven years you can do it now.

Sen. Montano: But it makes a mockery of the point of giving him a tax exemption. We are not really giving him a tax exemption. The question is, what are you really trying to create?

Dr. Nanan: Mr. Chairman, it was in the old Bill and we want to keep that particular line. *[Interruption]*

Sen. Mark: We want to keep that same provision. I hope that Sen. Montano will appreciate that.

Sen. Montano: I do not have a problem with that. Just to move on to subclause (6). Capital expenditure as such, is not referred to in that section. I am trying to find the relevance of that. We are talking about subparagraph (2). The capital invested does not really seem to relate to subclause (6). Sen. Marshall are you with me on that one?

Sen. Marshall: I am trying to find it.

Sen. Montano: Subclause (6). That really seems to relate to Schedule 9 which is not referred to in this section. I am trying to find if this is the right place for that clause. *[Interruption]* What I am really saying is, I have a feeling that that is really in the wrong place. It is just in the wrong place.

Dr. Nanan: Mr. Chairman, we would like to delete subclause (6).

Sen. Prof. Spence: Mr. Chairman, may I make a comment on subclause (2)? The last phrase “of the National Tourism Objectives.” I propose that “the” be deleted; capital “N” be replaced by common “n”; capital “T” by common “t” and capital “O” by common “o”.

Mr. Chairman: “and the achievement of national tourism objectives”.

Sen. Prof. Spence: As far as I am aware we do not have any national tourism objectives which have been approved by anybody.

Mr. Chairman: We will treat those as typographical errors.

Sen. Alfred: Mr. Chairman, which clause is that?

Mr. Chairman: We are still on 3(2), the last two lines.

Sen. Dr. St. Cyr: I think we anticipated what we are going to do with the Preamble.

Question put and agreed to.

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

12.15 p.m.

Clause 4.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 4 be amended by deleting in subclause (2) the words, “Chief Executive Officer” and substituting the word, “Corporation”.

Sen. Prof. Spence: Mr. Chairman, I have an amendment which proposes to substitute the word, “Ministry” for the word, “Corporation”. In other words, wherever the word, “Corporation” occurs it should say “Ministry” instead. I must say I missed it under clause 4 and I brought it in under clause 7 but it really would be inappropriate for it to be moved first under clause 4(2). So my proposal will read:

“Where the Minister also holds the portfolio for Trade and Industry...”

[Interruption]

Mr. Chairman: In subclause (2)—[*Interruption*]

Sen. Prof. Spence: Yes, delete it. I have to propose that clause 4(2) be deleted because the intent of my proposal under clause 7 is that the activities of the Corporation be removed from this Bill. Mr. Chairman, perhaps I could explain my position.

Mr. Chairman: Yes, go ahead.

Sen. Prof. Spence: I believe that having the Corporation do certain things and then passing their recommendations on to the Minister means that the Ministry is between the Corporation and the Minister. It therefore means that the Ministry is going to have to carry out all the functions that the Corporation has carried out before the Minister puts his signature to the approval. I think what we have done is set up two layers of bureaucracy between the application and the approval system. Now, I think this is going to come back and haunt us and so I feel very strongly on this particular issue. If it is not accepted by the Government, because that is not their policy, then I will still move the amendment and I will ask for a division because I think this is an extremely important measure with which we are dealing here.

Sen. Daly: May I say something about this, Mr. Chairman? My feelings are the same as Sen. Prof. Spence but, in relation to this particular subclause, I think it is objectionable for a different reason. This has nothing now to do with the relevance of TIDCO. It is objectionable for a different reason. The purpose of this clause 4 is merely to arrange the relationship between two Ministers of Government, that is to say, the Minister under this Bill, I have forgotten who it is, but anyway, the Tourism Minister. The purpose of clause 4 is to preserve the separate constitutional responsibilities of the two Ministers. In other words, the Minister of Tourism cannot give these types of licences. That comes under the portfolio of the Minister of Trade and Industry.

So, clause 4(1) is quite properly saying that if you, for some reason, need to have a vehicle import licence, that must be done by the Minister for Trade and Industry. So it is simply a section that is preserving constitutional propriety, protocol, the niceties of turf, not in the pejorative sense, between the two Ministers. That is all it is there for. Now, if it turns out that the Minister of Trade and Industry is also the Minister of Tourism, why do we need any third party to make a recommendation to him? It is part of his duties as Minister.

So clause 4(2) has no business in there at all. Forget who the Corporation is. It is really impertinence to suggest that some third party has to intercede where the

Minister holds all the relevant portfolio. So I really think clause 4(2) is objectionable for that reason. If somebody has the portfolio of trade, industry and tourism, let him give the licence. Why do you need some third party to advise him? I mean, I know there are third parties—I am trying to say this as neutrally as possible—however, I do not see why, if the Minister holds all three portfolios, there is need for a third party. If he is competent as Minister of Tourism to make a recommendation, then he is just as competent if he is Minister of Trade, Industry and Tourism, to give the licence. So clause 4(2) should be deleted for that separate reason. Why can we not trust the man, if he has trade, industry and tourism all in the same portfolio, to give the licence as opposed to recommending? [*Interruption*] And it is an extra step, that is right. So clause 4(2) is objectionable for that reason. This is not TIDCO'S business, you see. It is not the business of any third party.

Dr. Nanan: We will accept the suggestion by Sen. Daly to delete clause 4(2).

Sen. Daly: I am very much obliged. Thank you very much.

Dr. Nanan: But we are not accepting Sen. Prof. Spence's objection.

Sen. Prof. Spence: Well it does not have to come in now. It does not matter if you delete it. I will preserve it until clause 7.

Mr. Chairman: So the proposed amendment by the Minister is withdrawn?

Dr. Nanan: Yes.

Sen. Daly: Thank you very much. I do not suppose the foreign consultant would have understood that piece of constitutional—[*Interruption*]

Amendment withdrawn.

Sen. Prof. Spence: Mr. Chairman, we still have to propose that clause 4(2) be deleted and the subsequent renumbering of clause 4.

Question put and agreed to.

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

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 6 be amended by deleting subclause (1) and substituting the following new subclause (1) as follows:

“Where a tourism project or any part thereof, which enjoyed tax benefits is sold or used other than stated in the Order, a tourism project transfer tax commensurate with the market value of the tourism project or any part thereof shall be paid by vendor as set out in Schedule 8.”

Sen. Daly: I am very sorry, Sir. What I want to raise is not so easily subject to just an amendment. I have three problems with the tourism transfer tax, not as a concept. First of all, it is not defined in legal certainty, that is to say, “commensurate with” means nothing in legal terms because it does not lead you to a figure for the tax. So the words “commensurate with” are not capable of legal certainty. They do not lead you to a figure for the tax. Now, that could be taken care of by drafting because in Schedule 8 you have percentages. The words, “commensurate with” must come out and words must be used to say, “a tourism transfer tax in the amount of”, or whatever, but that is for the draftsmen.

The second problem I have with it is, it does not say when the tax is to be paid. For instance, stamp duty is paid when you go to register a conveyance. That is what triggers the stamp duty. This really is defining the liability for the tax. I am always heartened when the people who know about these things shake their heads. This is defining the liability but it is not saying when it is to be paid and to whom it is to be paid.

Finally, it provides for no sanction if you do not pay it and it omits any linkage to the enforcement powers of the Board of Inland Revenue. So there are five things wrong with it. I am suggesting it be deferred, Sir, with respect, and that these points can be taken up with the people who know about this, which is the Ministry of Finance.

Dr. Nanan: Agreed.

Clause 6, by leave, deferred.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Dr. Nanan: Mr. Chairman, I beg to move that clause 7 be amended by deleting the word, “agency”, in paragraph subclause (a) and substituting the word, “Corporation”. In subclause (b), delete the words, “the Assembly”, and substitute

the word, "Tobago". In subclause (c) insert after the word, "Corporation" the words, "or the Assembly". Insert after clause 7 the following new clause.

Mr. Chairman: No, we will deal with the new clause later on.

Sen. Prof. Spence: I also had a proposed amendment and I think I have said previously what the objective of the proposed amendment was. I have to make an apology because there should also have been an amendment under subclause (a) but, because of the late arrival of these changes I only finished—[*Interruption*]

Mr. Chairman: All right, at clause 7(a) you will make your proposed amendment.

Sen. Prof. Spence: My amendment would be in subclause (a) the word, "agency", should be replaced by the word, "Ministry".

Mr. Chairman: Or, you mean 7?

Sen. Prof. Spence: Yes, I am talking about clause 7(a). I omitted to say, "must be registered with the Ministry or the Assembly". I excuse myself on the basis that I finished this at 2.00 a.m.

Mr. Chairman: So it would read:

"must be registered with the Ministry..."

Sen. Prof. Spence: "or the Assembly". Now, the whole force of my argument is that we have set up two layers of bureaucracy and I am convinced that the Ministry of Tourism, in order for the Minister to give approval, is going to have to repeat those activities that TIDCO has gone into. Now, it is worse than that because the Ministry of Tourism will not be equipped to carry out those functions because of staffing. I think that I am heartened by the fact that Cabinet seems to share my confidence in the Ministry because the tax which the Minister referred to in his winding up statement said that the tax would go not to TIDCO but to the Ministry of Tourism.

Now, I agree with that entirely, but my proposal is to make sure that the Ministry of Tourism would receive the applications and give the approval.

12.30 p.m.

Now, TIDCO can line up the clients; help them with preparing the applications and do whatever else they should do—have advertisements; go all over the world recruiting people to invest in tourism in Trinidad and Tobago and the like. But to put it as the organization that receives and monitors the applications, then have

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the Ministry of Tourism which would do the same thing, and mark my words, the Ministry of Finance is also going to do it because, eventually, it is also going to go there for the tax concession and they cannot just sign a bit of paper because the Ministry of Tourism says so. So, we have set up three layers of bureaucracy to deal with this. This has nothing to do with my views on TIDCO.

Mr. Chairman, I would also like to point out that in the original Bill which came to us during the last session, if my memory serves me correctly, TIDCO was not occupying this role—we had a different bill in August or whenever it was that we had the first bill—so this was captured between that first bill given to this body and now. I am pretty certain that it was. I do not have the old bill now.

Dr. Nanan: We agree with the amendments from Sen. Prof. Spence.

Mr. Chairman: Which one? Because we are doing them together. In clause 7, your proposed amendment is to:

Delete the word “Agency” in paragraph (a) and substitute the word “Corporation”.

And Sen. Prof. Spence says:

Tourism project seeking to access benefits under this Act must be registered with the Ministry or the Assembly.

Now, he is also agreeable to the deletion of the word “Agency” but, apparently, not in agreement with the substitution of “Corporation”. Am I correct?

Sen. Prof. Spence: If you delete “Agency”—

Mr. Chairman: What I am saying is, the Minister's proposal is that we replace “Agency” with “Corporation”. Your proposed amendment is that we replace “Agency” with “Ministry”, so I am asking the Minister whether he would want it to be “registered with the Corporation, the Ministry and the Assembly”.

Sen. Prof. Spence: Mr. Chairman, I want to suggest that perhaps we take this after lunch because it is of fundamental importance.

Mr. Chairman: I do not know how long the discussions will be. I intended to go after, but this is the last of the clauses.

Sen. Hamel-Smith: Mr. Chairman, on the same point, if we are considering putting “Ministry”, we now have to have a definition for “Ministry” because we do not have a definition here for “Ministry”.

Sen. Prof. Spence: But I did say in my amendment that there would be certain consequential changes. There are a number of other consequential changes if that is put into the Bill.

Mr. Chairman: I want to understand what we are doing here.

Sen. Prof. Spence, your proposed amendment is:

...must be registered with the Ministry or the Assembly.

That is what you want proposed.

Sen. Prof. Spence: That is on the table.

Mr. Chairman: Replace “Corporation” by “Ministry” in the first line and add “Assembly” after “Corporation” in the second line.

Sen. Prof. Spence: But under (c) we would have to replace “Corporation” by “Ministry” again, or “Assembly”. If the Minister is prepared to accept that proposal, Mr. Chairman, then we can take it now.

Mr. Chairman: What do you want to do? Would we break for lunch and come back?

Assent indicated.

Mr. Chairman: All right, Senators. We would break for lunch and come back to deal with it.

Sen. Daly: Mr. Chairman, with your guidance, may I have your leave? The definition of “hotel” has now been circulated. Perhaps we could look at that after lunch.

Mr. Chairman: Yes, when we return. We will suspend for lunch until 1.30 p.m.

12.37 p.m.: *Committee suspended.*

1.30 p.m.: *Committee resumed.*

Mr. Chairman: We are at clause 7.

Dr. Nanan: Mr. Chairman, the amendment proposed by Sen. Prof. Spence is a fundamental shift in policy. We would like to consider this very carefully, so I ask for deferral of this particular clause for the time being.

Clause 7, by leave, deferred.

Mr. Chairman: Shall we return to the definition of “hotel”?

Sen. Prof. Spence: Mr. Chairman, would you mind if I just said that perhaps it might be interesting to look at the Bill that was presented in August? In making the consideration, it would be worthwhile for you to look at the Bill which was presented in August.

Mr. Chairman: Sure. We will return to clause 2L, the proposed amendment to the definition of “hotel” as submitted by Sen. Daly. I think the proposed amendment was circulated to all Senators.

Sen. Daly: Mr. Chairman, as I explained it, is it acceptable?

Dr. Nanan: Yes. We accept it, Mr. Chairman.

Sen. Daly: Thank you very much.

Dr. Nanan: Mr. Chairman, I would like to withdraw the amendment to clause 2L, the definition of “hotel”.

Amendment withdrawn.

Mr. Chairman: We have a proposed amendment by Sen. Daly. Do you wish to say anything on it, Senator? The Minister is agreeable.

Sen. Daly: No, Sir. Mr. Chairman, I propose the following amendment to clause 2L:

“hotel” means a building or group of buildings including the curtilage thereof and all buildings within the curtilage occupied together and used to provide the following services to guests for reward:

- (a) the supplying, under any arrangements of rooms, and of laundry, dry-cleaning and valet services to registered guests of the hotel;
- (b) the supplying of food and restaurant services, alcoholic and non-alcoholic beverages, cigarettes, cigars and tobacco by the hotel operator to customers of the hotel whether registered guests or not;
- (c) the supplying of any of the hotel's facilities for meetings, conventions, conferences, sales promotions, parties and other entertainments to customers of the hotel whether registered guests or not;
- (d) the supplying of car-parking services, check room facilities and telephone services to customers of the hotel whether registered guests or not;

- (e) the rental of areas of the hotel premises to be used as a barber shop, hair-dressing parlour, travel agency, transportation services, banking services, merchandise shops or for any other purpose as the Minister may in writing approve; or
- (f) the supplying of such service or the carrying on of such activity, as the Minister may declare by Order, relating to a specific hotel or generally, to be an hotel service.”

Question put and agreed to.

Mr. Chairman: We have disposed of all the proposed amendments to clause 2, so I shall now put the question.

Question proposed.

Question put and agreed to.

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

Mr. Chairman: Shall we revert to clause 7A? I am sorry, clause 7A is a new clause.

Clause 8.

Dr. Nanan: Mr. Chairman, I propose the following amendment to clause 8:

Delete clause 8 and substitute the following new clause:

- | | |
|--------------------------|---|
| “Investment criteria. | 8. In order to obtain benefits under this Part, a tourism project shall— |
| | (a) have a capital or equipment cost of a minimum value outlined at Schedule 9; |
| | (b) be constructed or undertaken primarily for use in the tourism industry; |
| | (c) be available on a continuing basis for use in the promotion of Trinidad and Tobago as a tourist destination;” |

Mr. Chairman: Is this a new clause?

Dr. Nanan: Yes, Mr. Chairman.

Sen. Mahabir-Wyatt: Mr. Chairman, I wonder if I could ask a question on clause 7. In the Bill last week, there was a clause 7(e) to which I objected: “must

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be members in good standing of a national association representing hotels and tourism”. It has been removed from this draft, but in the new document which we have, while it has been removed from clause 7(e), it has been included under Schedule 7. Should I wait until Schedule 7 to take it up?

Mr. Chairman: Yes.

Sen. Mahabir-Wyatt: Okay.

Mr. Chairman: Clause 8 is not a new clause. It is a substitution.

Sen. Montano: Mr. Chairman, there is a problem with that. Schedule 9 is not a comprehensive list. For instance, it excludes the activities of Schedule 2, 1—7. If one does that, one is automatically going to exclude the activities of Schedule 2, 1—7. The new clause 8(a) says that it must have a capital minimum cost as set out in Schedule 9, but Schedule 9 is not a comprehensive list and does not include items 1—7 on Schedule 2.

Dr. Nanan: Senator, I have been told that they have collapsed some of the activities in agreement to that.

Sen. Montano: I saw that. I went through it fairly carefully and it was a defect which I was not here to fix on Friday. Unfortunately, I did not make a comment about it then, but it is now more relevant. If there is a marina that exists only as a marina, or a charter boat, it is going to be excluded, but I do not think that is anybody's intention here. I think it is inadvertent, unless it is that one is going to have no minimum capital cost for those items.

1.45 p.m.

Dr. Nanan: I am advised that the Bill leaves room for discretion by the Minister.

Sen. Montano: I do not see that. Clause 8 states:

“In order to obtain benefits a tourism project shall—

- (a) have a capital or equipment cost of a minimum value outlined in Schedule 9:”

It does not give anybody any discretion there. I think we all have the same objective here. I think that we all know that we want to have it included, so have your advisors just fix it.

Mr. Chairman: The Minister has asked that we defer clause 8, is that okay?

Clause 8, by leave, deferred.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Dr. Nanan: Mr. Chairman, I beg to move that clause 9 be amended as follows:

Insert after the word “projects” in line one the words “the incentives for”.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed, That clause 10 stand part of the Bill.

Dr. Nanan: Mr. Chairman, I beg to move that clause 10 be amended as follows:

- A. In subclause (1) delete the words “the Chief Executive Officer of” and the words “(hereinafter referred to as “the Chief Executive Officer”).

Sen. Prof. Spence: Mr. Chairman, may I point out that if we are going to defer clause 7, unless we can have an agreement that we would subsequently come back and alter all the consequential clauses, we then have to defer all the clauses. If we do not agree on that, then we have to defer all the clauses that depend upon the change in clause 7. We have deferred clause 7 and clause 10 has a consequential change if we agree on clause 7.

It means that we must do one of two things: either we have an agreement, whereby we will reconsider all those clauses that are relevant and rechange them or we have to defer them all.

Mr. Chairman: All these deal with the Chief Executive Officer.

Dr. Nanan: Mr. Chairman, with your leave, could we go to clause 14?

Mr. Chairman: We have to defer clauses 10 to 12 because they all impact on clause 7.

Dr. Nanan: Mr. Chairman, I would like to defer clauses 10 to 13 because, again, they rely on a fundamental policy change.

Sen. Prof. Spence: Unless you are taking my other amendment about Tobago.

Dr. Nanan: Yes.

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Sen. Prof. Spence: Okay.

Mr. Chairman: Are we agreeable to deferring clauses 10 to 13?

Dr. Nanan: Yes.

Clauses 10 to 13, by leave, deferred.

Clauses 14 to 21 ordered to stand part of the Bill.

Clause 22.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 22 be amended as follows:

Delete the word “tourism” in the penultimate line of subclause (1) and substitute the words “for tourism accommodation”.

Sen. Montano: Is that after the words “duty free and articles of”?

Mr. Chairman: It is the penultimate line of subclause (1) which states:

“...which are not already duty free...”

Sen. Montano: “which are not already duty free and articles for tourism accommodation.”

Tourism accommodation equipment? That does not read right.

1.55 p.m.

Mr. Chairman: It does not read correctly. Delete the word “tourism” in the penultimate line of subclause (1) and substitute the words “for tourism accommodation and articles”. Something is wrong. *[Discussion]* “...of tourism equipment”.

Sen. Montano: I think it should be “of tourism equipment”. It is more likely to be that.

Sen. Marshall: Could it be, Mr. Chairman, “and equipment”, that the equipment stays in, but it reads “for tourism accommodation and equipment as may be specified in the permit”?

Mr. Chairman: Just delete “of tourism” and substitute “for tourism accommodation and equipment”. That is what you are suggesting?

Sen. Marshall: Yes.

Mr. Chairman: Minister?

Dr. Nanan: Yes, Mr. Chairman.

Mr. Chairman: ...duty free and articles of equipment—What is it—“and articles for tourism accommodation”?

Sen. Montano: “and equipment and articles for tourism accommodation”.

Mr. Chairman: Using articles twice.

Sen. Montano: No, “duty free and equipment and articles...”

Mr. Chairman, I just draw your attention to subclauses (2) and (3).

Mr. Chairman: Just let me get this please. Let me make sure I have this correctly and then we will move on to subclauses (2) and (3). Mr. Minister, let me see if this is what you are agreeing to:

- (1) Where a person has been granted an interim approval or an additional interim approval under Part 2, the Minister may grant to that person upon his application thereof a permit for the importation or entry into Trinidad and Tobago free of customs duty and for the purchase in Trinidad and Tobago with the privilege of a drawback of customs duties or excise duties such building materials which are not already duty free and equipment and articles for tourism accommodation as may be specified in the permit.

Sen. Montano: I would just like to draw the Minister's attention to subclauses (2) and (3) where the expression “tourism equipment” is used four times.

Mr. Chairman: Are you suggesting anything, Senator?

Sen. Montano: Well, just to be consistent. Wherever it says “articles of tourism equipment” we should use the words “equipment and articles for tourism accommodation”; that way we are consistent everywhere.

Sen. Marshall: Mr. Chairman, I think there should be no change to clause 22(1); it reads correctly. I think the idea is that the building materials really refer to the accommodation and the tourism equipment is just as it stands there. In other words, I am saying that the proposed amendment should possibly be deleted. Let it stand as is. They are talking about the drawback of customs duties or excise duties for building materials which would refer to accommodation: concrete walls, bricks, windows, *et cetera*; and the tourism equipment, which you could visualize as being the mobile type of equipment for which duty free concessions

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or—So I think we should simply delete it and do not attempt to flow through any changes.

Sen. Montano: I think he is right.

Mr. Chairman: That is true. So we stet clause 22.

Dr. Nanan: Thank you. Mr. Chairman, I withdraw my proposed amendment to clause 22(1).

Amendment withdrawn

Clause 22 ordered to stand part of the Bill.

Clauses 23 to 33 ordered to stand part of the Bill.

Sen. Prof. Spence: Mr. Chairman, before we leave this part, may I ask a question? Does new clause 7A also apply to this section, that is, that the purchaser or lessee of a villa or site does not benefit from free importation of furnishings for the villa or site? Is it clear that tax benefits referred to in new clause 7A apply to duty concessions?

Mr. Chairman: I have no idea. You want to deal with it when we come to clause 7A?

Sen. Prof. Spence: That is if it impacts on this part.

Mr. Chairman: If it impacts on it.

Sen. Prof. Spence: Okay.

Clause 34.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 34 be amended as follows:

Delete clause 34 and substitute the following new clause:

| | |
|-----------------------------------|--|
| <p>“Application of Part 2</p> | <p>34. This Part applies to a new or existing tourism project that has been declared by Order to be an approved tourism project under Part 2 of this Act.”</p> |
|-----------------------------------|--|

Question put and agreed to.

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

Clause 35.

Question proposed, That clause 35 stand part of the Bill.

Dr. Nanan: Mr. Chairman, I beg to move that clause 35 be amended as follows:

Delete the word "38" and substitute therefor the word "37".

Question put and agreed to.

Clause 35, as amended, ordered to stand part of the Bill.

Clause 36.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 36 be amended as follows:

Delete subclause (4) and substitute the following new subclause:

| | |
|-------------------------------------|--|
| <p>“Carry forward of losses</p> | <p>(4) A loss incurred for an accounting period by the owner or operator of an approved tourism project, arising out of the rental or operation of such approved tourism project, during the tax exempt period, shall be held over and carried forward by such owner or operator and shall be set off against any gains or profits accruing to such owner or operator after the expiration of the tax exempt period in relation to the approved tourism project, in accordance with section 16 of the Income Tax Act.”</p> |
|-------------------------------------|--|

2.10 p.m.

Sen. Marshall: Mr. Chairman, I have a contribution to make which I think could be significant. I believe the intention here is this. Let us say, in the first seven years of this approval period the owner makes profits in six years but losses in one of the years, I believe the intention is, that he can carry forward that loss and set that off in future profits after the end of the exemption period.

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This is very important because section 16 of the Income Tax Act does not allow you to hold over profits and carry forward. So this is my proposed amendment. In the second to last line it should read, “after the exploration the tax exempt period in relation to the approved tourism project...” Then you delete “in accordance with section 16 of the Income Tax Act.” Then a sentence is added—which I am going to read:

“After the exploration of the tax holiday period, losses shall be set off in accordance with section 16 of the Income Tax Act.”

Sen. Montano: That clarifies it.

Sen. Prof. Spence: Mr. Chairman, I am very grateful to have that policy explained to me. Suppose I am running a business in the tax-free time and I make a very large profit for six of the years, why should I then be able to carry over my losses? I really cannot see the rationale of that policy? If I were paying tax I would not be allowed to carry it forward in that way.

Sen. Marshall: To answer the Senator’s question, Mr. Chairman. Over a period of time you would still pay the same amount of tax, what I have proposed is simply deferring the timing of the payment of the tax. Because under the Income Tax Act you would have been able to set off the loss. All that is happening is a loss that may have been incurred in one of the seven years in the tax-free period, can be set off after the end of the seventh year instead of having to set it off during the tax-holiday period.

Sen. Prof. Spence: Mr. Chairman, it cannot be set off because it is tax free. How can you set it off during the period if you are not paying tax?

Sen. Marshall: Mr. Chairman, this is what I am saying.

Sen. Prof. Spence: Yes. So why are you allowed to carry it forward? You are getting a benefit of a tax-free concession for seven years. In addition to that, you want to benefit that if you lose money during one of those years, you offset that loss against taxes when you start to pay tax? I do not see why you want to give that concession.

Dr. Nanan: Mr. Chairman, I would accept the amendment made by Sen. Marshall to my proposed amendment.

Sen. Prof. Spence: *[Inaudible]* I just do not want the Minister of Finance to come along and say he is short of funds. *[Crosstalk]*

Mr. Chairman: Let us leave it at that, the Minister has agreed. Sen. Marshall, it is all right, thanks.

Sen. Marshall: Okay.

Sen. Dr. St. Cyr: I would only ask, would the carry-over facility be unlimited? Or, would you put a date beyond which you would not permit it to be carried any further?

Sen. Marshall: Senator, it would be in accordance with section 16 of the Income Tax Act.

Sen. Prof. Spence: *[Inaudible]*

Sen. Marshall: Losses have to be set off against future profits as they arise, until they are eliminated.

Mr. Chairman: Hon. Members, the question is:

Delete subclause (4) and substitute the following new subclause:

Carried forward
of losses;

- (4) A loss incurred for an accounting period by the owner or operator of an approved tourism project, arising out of the rental or operation of such approved tourism project, during the tax exempt period, shall be held over and carried forward by such owner or operator and shall be set off against any gains or profits accruing to such owner or operator after the expiration of the tax exempt period in relation to the approved tourism project...after the expiration of the tax-holiday period, losses shall be set off in accordance with section 16 of the Income Tax Act.

Question put and agreed to.

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

Clause 37.

Question proposed, That clause 37 stand part of the Bill.

Dr. Nanan: Mr. Chairman, I beg to move that clause 37 be amended as follows:

Delete the words “36 or 37” in subclause (1) and substitute the words “35 or 36 unless separate books and records are kept for each tourism project to the satisfaction of the Board and”.

Question put and agreed to.

Clause 37, as amended, ordered to stand part of the Bill.

Clause 38.

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

Mr. Chairman: I think there are two proposed amendments; one by the Minister and one by Sen. Prof. Spence.

Dr. Nanan: Mr. Chairman, I beg to move that clause 38 be amended as follows:

Insert after the word “loan” in subclause (1) the words “for a period not exceeding seven years or the period of the loan, whichever is the lesser period”.

Mr. Chairman: Do you want to elaborate on that? We also have a proposed amendment by Sen. Prof. Spence.

Sen. Prof. Spence: Mr. Chairman, I will add a new subclause (3) in my proposed amendment. *[Discussion]*

Dr. Nanan: Mr. Chairman, we will accept Sen. Prof. Spence’s amendment. I withdraw. *[Crosstalk]*

Sen. Prof. Spence: Mr. Chairman, that does not obviate his amendment.

Mr. Chairman: That is what I want to know. I will put the question for the Minister’s proposed amendment first then for Sen. Prof. Spence’s.

Question put and agreed to.

Mr. Chairman: Now we go to Sen. Prof. Spence’s amendment. Add a new subclause (3) as follows:

“no benefit under this section shall apply to a loan made to the purchaser or lessee of a villa or condominium unit or the site for a villa or condominium unit in an integrated resort development”.

Question, on amendment [Sen. Prof. Spence] put and agreed to.

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

2.20 p.m.

Clause 39.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 39 be amended as circulated:

“Add a new subclause (2): ‘any other application pending under the repealed Act shall be deemed to be an application for any similar benefit available under this Act.’”

Mr. Chairman: Are there any comments on that proposed amendment? Sen. Daly, do you want to add anything to it?

Dr. Nanan: Mr. Chairman, we would like to amend clause 39 proposed by Sen. Daly to reflect August 3rd, 1995.

Mr. Chairman: What shall we say? Propose the change.

Dr. Nanan: We say “any other application pending on the repealed Act from August 3rd 1995.”

Sen. Daly: Or perhaps we could say; “any other application made on or after and still pending on the repealed Act.”

Dr. Nanan: We would go with that.

Sen. Daly: Thank you very much, Sir.

Dr. Nanan: Mr. Chairman, I beg to move that clause 39 be amended as follows:

- (1) Where on the commencement of this Act an application for interim approval of a hotel under the former Hotel Development Act (hereinafter referred to as ‘the repealed Act’) is pending, that application shall be deemed to be an application for an interim approval of a tourism project under Part 2 and shall be dealt with in accordance with that Part.
- (2) Any other application made on or after August 3rd 1995 and pending under the repealed Act shall be deemed to be an application for any similar benefit available under this Act.”

Question put and agreed to.

Clause 39, as amended, ordered to stand part of the Bill.

Clause 40.

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

Dr. Nanan: Mr. Chairman, I beg to move that clauses 40 to 44 be renumbered as clauses 41 to 45 respectively and substitute a new clause 40 as follows:

- “(1) Where on the commencement of this Act any person is engaged in a tourism project which commenced on or after August 3rd 1995 in respect of which he may be eligible to enjoy tax benefits under this Act, such person may submit an application under this Act for all the benefits that he would be entitled to, had this Act been enforced from August 3rd 1995.
- (2) Subclause (1) shall have effect from the date of the Proclamation of this Act;
- (3) Subclause (2) does not apply to clause 38.”

Mr. Chairman: I will not propose this as yet because it is really a new clause, you are adding a new clause and renumbering the rest so, in effect, it is a new clause. We will revert to this after dealing with the other new clauses.

We had deferred clauses 6 and 7. Clause 7(a) is a new clause. We had deferred clauses 8, 10, 11, 12, and 13. Shall we go back to the deferred clauses? We are reverting to the proposed amendment to clause 6.

Clause 6 reintroduced.

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

Dr. Nanan: Mr. Chairman, I beg to move that clause 6 be amended as follows:

“Where a tourism project or any part thereof, which enjoyed tax benefits is sold or used other than stated in the Order, a tourism project transfer tax based on the market value of the tourism project or any part thereof as aforesaid shall be paid to the board at the time of the sale or change of use.”

Sen. Daly: Paid by whom, vendor or purchaser?

Dr. Nanan: By the vendor.

Sen. Daly: All right. And based on market value means what? It still has not dealt with the fact that it is not certain. We have to have certainty. We have to say 35 cents in the dollar, 12 per cent in the market value.

Sen. Prof. Spence: May I also ask stamp duty? Because stamp duty is normally created by the purchaser, is it not?

Sen. Daly: Yes, but that is a separate issue.

Dr. Nanan: I have a change Mr. Chairman, "appraised value".

Sen. Daly: What is the base figure? Is it 35 cents in the dollar, 12 per cent of the appraisal? That is the problem, the base. If you are going to tax somebody, you have to tax them for a sum that is either specified or calculable by the legislation. The draftsman knows that.

[Pause]

Maybe the problem can be solved, Mr. Chairman, by saying; "the rates specified in Schedule 9", but I really do not want anybody to put their hand on this who is not finance. You cannot tax somebody without specifying a fixed tax.

2.35 p.m.

Mr. Chairman: Hon. Members, the Senate will resume as the hon. Minister wants to report progress.

Senate resumed.

ARRANGEMENT OF BUSINESS

The Minister of Tourism (Dr. The Hon. Adesh Nanan): Mr. President, I wish to report progress to the Senate and ask leave of the Senate to sit again on December 7, 1999 to conclude the committee stage of the Bill.

Agreed to.

ORAL ANSWERS TO QUESTIONS

Queen's Park Savannah (Paving)

1. Sen. Prof. Julian Kenny asked the hon. Minister of Agriculture, Land and Marine Resources:

- A. Could the hon. Minister inform the Senate of:
 - i. the approval procedures employed for paving the parade route in the Queen's Park Savannah;
 - ii. the extent of the area paved;
 - iii. the cost involved;
 - iv. the source of the funds for the operations?

- B. Could the hon. Minister also inform the Senate whether:
- i. the paving was done to standards for roadways including normal foundations, curbing and drainage;
 - ii. any impact assessment was done;
 - iii. normal established tendering procedures were employed and if so, who the successful tenderer was?

If the answer to (iii) is in the negative, could the hon. Minister state who the contractor was and what are the general terms of the contract?

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): Mr. President, the National Carnival Commission was the organization responsible for preparing the Savannah area for the Independence Day parade as has been its responsibility for very many years.

2.45 p.m.

I am advised that in view of the urgency of the situation and the real possibility of the cancellation, for the first time, of the military parade to commemorate the country's independence, the Chairman of the Commission held a round robin discussion with available commissioners and obtained a consensus on a course of action. This consensus included identification of a contractor who could be mobilized at the shortest notice and a ballpark estimate of the cost involved. As a result, the Chairman exercised his initiative to take steps towards preparing the area for the parade in the national interest. The decision and action taken were later ratified at a meeting of the board of the commission on August 30, 1999.

Mr. President, the total area of the site paved was 2.3 hectares. The cost of paving the area was \$2,500,000.00 plus VAT of \$375,000.00, making a total of \$2,875,000.00. I am advised that no source of funding was identified at the time of contracting as the contractor agreed to defer receipt of payment. The board of the National Carnival Commission has undertaken to identify funds through revenue from rental of the savannah buildings and facilities and from savings from operations.

Mr. President, I am advised that paving was done to normal standard engineering requirements. No impact assessment was done as there was no time in which to do so. Normal established tendering procedures were not employed.

On the basis of procedures in cases of emergency, and as a result of discussions and agreement arrived at as stated above, the contract was awarded to Coosal's Construction Company Limited. Thank you, Mr. President.

Sen. Prof. Kenny: Thank you, Mr. President. I have a supplementary question to the hon. Minister. Is there a plan for the further development of that particular area approved by the competent Ministry?

Hon. T. Sudama: I am not aware of any such further plan, Mr. President.

Sen. Daly: Supplemental, Mr. President. Was any Minister informed of what was taking place at any time during the emergency?

Hon. T. Sudama: I will have to enquire into the answer to that supplementary question, Sir.

Emperor Valley Zoo Elephants (Management of)

2. **Sen. Prof. Julian Kenny** asked the Minister of Agriculture, Land and Marine Resources:

- A. Could the hon. Minister inform the Senate of:
 - i. the estimated final cost of construction of the elephant enclosure at the Emperor Valley Zoo;
 - ii. the estimated date of completion of that facility;
 - iii. the numbers of staff trained to handle elephants and the costs of their training;
 - iv. the estimated monthly maintenance, including feed costs, of the elephant?

- B. Could the hon. Minister also indicate to the Senate whether there are plans to import a mate or companion for the gift animal or any other large mammals?

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): Mr. President, the estimated final cost of construction of the elephant enclosure at the Emperor Valley Zoo is \$905,050.00, VAT inclusive. The estimated date of completion of the enclosure is January 31, 2000.

Three persons were trained to handle elephants. Mr. Kenneth Ceasar, who had training in the following places: the Bristol Zoo, the Albuquerque Zoo, Miami

Metro Zoo, Bronx Zoo and Cincinnati Zoo by way of scholarships. Mr. Kishore Ramlogan, Zookeeper I, who had experienced training at the American Zoo Aquarium Association School. The cost to Government was US \$272.60 which is the TT equivalent of \$1,717.38. The third person is David Ramsingh, Zookeeper I, who had some training at the Miami Metro Zoo with a cost to Government of US \$710.00, equivalent TT \$4,473.00. The total cost, therefore, being \$6,190.38.

The estimated monthly maintenance, including feed costs of the elephant, is expected to start at \$1,321.00 per month and peak to \$2,449.50 when the animal reaches adulthood.

Mr. President, there are no plans to import a mate or companion for the gift animal or any other large animals. Thank you.

Sen. Prof. Kenny: Thank you, Mr. President. Two supplemental questions. The first one is: could the hon. Minister tell us what species of elephant is being imported and, secondly, could he tell us the dimensions of the elephant enclosure?

Hon. T. Sudama: Mr. President, I do not know the answers to those questions but I could, of course, find out and relay to Sen. Prof. Julian Kenny the species of elephant. I understand that a baby elephant is being proposed for importation.

Sen. Prof. Kenny: I also asked the dimensions of this enclosure. We are spending \$900,000.00. How large is it, as large as this room, roughly?

Hon. T. Sudama: Mr. President, of course, that question was not asked here. I do not have that answer but that answer could easily be available.

Sen. Jagmohan: Mr. President, a supplemental question to the hon. Minister, if he would be gracious enough to advise us. He named the locations where the elephant handlers were trained and also the names. We would like to know, is the baby elephant coming from any of the locations where the training took place?

Hon. T. Sudama. No, Mr. President. My information is that the baby elephant will be coming from India. However, it is proposed that the baby elephant will be accompanied by a veterinary surgeon and a mahout, both of whom will be spending considerable time in Trinidad and Tobago after the arrival of the elephant.

Sen. Jagmohan: Thank you.

National Parks

(Consultancy Arrangements)

3. **Sen. Prof. Julian Kenny** asked the Minister of Agriculture, Land and Marine Resources:

- A. Could the hon. Minister inform the Senate whether consultants were employed to delimit the proposed Maracas and Matura National Parks in Trinidad and the Main Ridge National Park in Tobago?
- B. If the answer is in the affirmative, could the hon. Minister state:
 - i. who the consultants were;
 - ii. the date, period, terms and costs of the consultancy;
 - iii. the source of funding for the consultancy;
 - iv. whether Government approved of the commendations of the consultancy?
- C. If the answer to (iv) is in the negative, could the hon. Minister state who was responsible for delimiting the proposed parks?

The Minister of Agriculture, Land and Marine Resources (Hon. Trevor Sudama): Mr. President, to date no consultant has been employed to delimit the proposed Maracas and Matura National Parks in Trinidad and the Main Ridge National Park in Tobago.

Sen. Prof. Kenny: Mr. President, I am totally confused now because we have had a Bill before us and the outlines of the park are delimited. Was this done internally by the Ministry?

Hon. T. Sudama: Mr. President, the Government is in the final stages of preparing a national parks and wildlife management project which is aimed at protective management of the proposed national parks, other protected areas and wildlife. To facilitate the selection of areas for the three national parks, a protected area selection and prioritization study was undertaken. The three areas, of course, were Matura, of 8,200 hectares, Maracas of 8,500 hectares, both in Trinidad and Main Ridge of 4,000 hectares in Tobago. Their selection is based on their rich uniqueness of biological diversity and naturalness.

Although the boundaries were generally described, the studies did not provide the detailed descriptions required for these areas as national parks and, therefore, bids were invited from suitable individuals or firms by advertisements in the daily media, for a one-month consultancy, to prepare a suitable description of the boundaries and accompanying maps for the purpose of designating the three national parks. Thank you.

Sen. Prof. Spence: Mr. President, does that mean that the Bill is going to be withdrawn? This is because the Bill does have some designation of the limitations of the park.

Hon. T. Sudama; As I explained, the Bill has a general description and designation. What we needed to do was to go into a detailed description and mapping exercise and this is what this study was intended for. In fact, Mr. President, bids were received and are being evaluated for this purpose.

Sen. Prof. Spence: I think the hon. Minister would agree that we cannot pass into law designated areas which are vague and which need to be further delineated, so that is why I asked the question and I will repeat it—is the Bill going to be withdrawn or amended?

Hon. T. Sudama: No, there is no need for the Bill to be withdrawn.

Sen. Prof. Kenny: Mr. President, a supplemental question. Bearing in mind that one of the parks is 8,200 hectares and the other is 3,500 hectares, can we be assured that these are all state lands or are private lands falling within these parks? If so, what is the approximate area of private lands within each of these parks? Is it one per cent, 10 per cent or more?

Hon. T. Sudama: As far as I am aware, Mr. President, these areas designated are all state lands but, in going into the specific and detailed boundaries, we will be able to identify whether there is any portion of private land involved. As I said, however, as far as I am aware, these were selected on the basis that they are primarily state lands.

HUMAN TISSUE TRANSPLANT (NO. 2) BILL

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I beg to move,

That a Bill to make provision for the removal of human tissue for transplantation and blood for transfusion and for matters connected therewith, be now read a second time.

Mr. President, you will recall that the Human Tissue Transplant Bill was presented in this honourable Chamber on March 16, 1999 and during the second reading it was referred to a Joint Select Committee of both Houses of Parliament for further consideration. The committee held seven meetings and considered the Bill in detail. As part of its deliberations the committee invited public comment

via announcements in the daily newspapers and, in addition, the Bill was sent to 20 organizations seeking their comments.

These organizations are: the Trinidad and Tobago Medical Association; the Ophthalmology Society of Trinidad and Tobago; the Surgical Society of Trinidad and Tobago; the Paediatric Society of Trinidad and Tobago; the Association of Anaesthetists of Trinidad and Tobago; Urological Society of Trinidad and Tobago; Society for Inherited Blood Disorders; Friends of the Blood Bank; John Hayes Kidney Foundation; Diabetic Association; Glaucoma Association; Lion's Club of Trinidad and Tobago; The Inter-Religious Organization; the UWI Faculty of Medical Sciences; the Family Planning Association; the Renal Transplant Unit of the Eric Williams Medical Sciences Complex; the Gynaecological and Obstetrics Society of Trinidad and Tobago; General Practitioners Association; the Medical Board of Trinidad and Tobago and the Law Association. Mr. President, comments were received from eight organizations.

3.00 p.m.

The Committee considered the policy enunciated in the Bill, went through the Bill clause by clause and was supported in its deliberations by technical officers from the Ministry of Health, as well as staff from the office of the Chief Parliamentary Counsel.

After careful consideration of the Bill and taking into account the comments made by the various organizations, the committee made its recommendations which resulted in the Bill being redrafted, incorporating the recommendations of the committee. The Bill before us, therefore, the Human Tissue Transplant (No. 2) Bill, is the result of that exercise.

When I presented this Bill in March 1999, I outlined the policy of the Bill, the rationale for and the importance of bringing this piece of legislation to Parliament. I would therefore like, on this occasion, to briefly outline the policy and to go through some of the major provisions.

This Bill seeks to regulate the activities relating to organ and tissue transplantation in human beings, the use of tissues for other therapeutic, medical and scientific purposes and the enactment of provisions for determining death using the criteria for brain death. We believe that the enactment of this Bill into law would fulfil a longstanding need, and realize an overdue measure for the benefit of our citizens.

Transplantation of regenerative and non-regenerative tissue from living persons and cadavers has been a well-established technique in the medical arsenal worldwide for a long time now and has saved or improved the quality of life for many people. The Bill provides that the removal and transplantation of human tissue shall be carried out by physicians and only in hospitals which have been duly authorized by the Minister responsible for health.

Clause 2 of the Bill deals with interpretation and I would like Senators to pay particular attention to the definition of the following:

“‘guardian’ means a person appointed by a will or by order of a court to be guardian of a child;

‘minor’ means a person under eighteen years of age, but does not include a person who is married or a parent;

‘nearest relative’ means in strict order of priority—

- (a) a spouse;
- (b) a child who is not a minor;
- (c) a parent or guardian; or
- (d) a brother or sister over eighteen years of age.”

‘tissue’ includes an organ, a part of a human body and a substance extracted from the human body or a part of the human body, but does not include—

- (a) spermatozoa or ova;
- (b) an embryo or a foetus or a part of an embryo or a foetus; or
- (c) blood or a blood constituent;”

Mr. President, clause 3 provides for the appointment of designated officers who shall be medical practitioners who have been in practice for a period not less than three years. Each hospital authorized to perform these procedures would be staffed by at least one designated officer. These officers would be responsible for handling the administrative aspects of each transplant.

In the previous draft, provision was made for the appointment of one designated officer for each hospital. The designated officer was authorized to delegate authority to other officers. During the deliberations of the Joint Select Committee, this was seen as a cumbersome and untidy arrangement. It has been changed, therefore, to make provision for the appointment of more than one designated officer in a hospital, as may be necessary.

To prevent any possibility of conflict of interest, clause 3(4) prohibits their participation—that is, the participation of the designated officers—in any of the medical procedures involved in the removal of tissue from the body of a living person.

Part III of the Bill provides for the donation of tissue by an adult. Clauses 4 and 5 deal with the donation of regenerative tissue and set out the criteria by which these tissues may be donated. The criteria include that the donor shall not be a minor, should be of sound mind and must have given informed consent. It also makes provision for the consent to be revoked any time before the actual removal of the tissue. After consent is given, the designated officer must then ensure that all requirements are complied with. As a second safeguard, he must explain the implications of the removal of the tissue and ensure that the donor understands.

Clause 6 of the Bill treats with the donation of non-regenerative tissue. As I indicated earlier, there are tissues that cannot be replaced in the donor's body by natural processes. For example, the kidney. The conditions imposed for the removal of regenerative tissue are also imposed with respect to non-regenerative tissue.

The conditions imposed on the medical practitioners and designated officers are there to ensure the protection of the donors' safety, dignity and rights and, here, an additional safeguard is inserted, that is in the case of non-regenerative tissue, at least 24 hours must elapse before the consent and actual removal, in case there is a change of mind.

Clauses 8 to 12 provide the legal framework for the donation of tissues by minors. The Bill defines a minor as someone who is:

“under eighteen years of age, but does not include a person who is married or a parent;”

Clause 8 prohibits the removal of non-regenerative tissue from the body of a living minor for any purpose whatsoever. This is an absolute prohibition and, as such, under no circumstances can this be done.

However, clause 9 allows for, in a limited way, the removal of regenerative tissue from minors for the specific purpose of transplantation to the body of a natural brother, sister or parent of the minor, providing that the parent or guardian has obtained objective advice from a medical practitioner regarding the nature and effect of the removal and the nature of the transplant. Further, the minor must be

of sound mind and must have agreed to the transplantation by making an informed decision.

To this end, clause 10 provides that the consent of the parent or guardian, the agreement of the minor and the certification of the designated officer are necessary for a medical practitioner to remove regenerative tissue from the body of a minor who understands the nature of the procedure providing that consent has not been withdrawn.

Clause 11 treats with the situation where children are too young to understand the consequences of the removal of regenerative tissue from their bodies. Clause 11 restricts the procedures to cases where the tissue is necessary to save the life of a brother, sister or a parent of the minor. Once again, the informed consent of the parent or guardian and the certification by the designated officer are necessary before transplantation can take place.

Mr. President, it is to be noted that in the circumstances, a medical officer, other than the one who is to perform the procedure, must certify that the sibling or parent of the minor would die in the absence of transplant.

The conditions under which regenerative tissue, including bone marrow, can be removed from minors are very stringent. This has been deliberately done to prevent abuse of children by either parents or guardians. If we have erred here, we prefer to err on the side of caution.

Part V stipulates the conditions and procedures which must be followed before tissues can be removed from deceased persons. Because of the practical difficulties in obtaining tissues from live donors, medical attention has been directed to the possibility of obtaining tissue from cadavers. The practical advantages are obvious. The donor, once pronounced dead, is not exposed to any hazards which face live donors. Moreover, in some cases, such as heart and some other organs, it is not possible to take organs from live donors.

Transplantation is now an accepted treatment for patients with end stage organ failure, where treatment with drugs or restorative surgery is not possible. Some major breakthroughs in tissue typing and immuno-suppressant drugs have made it possible to transplant approximately 25 different organs and tissues including bone, cartilage, bone marrow, skin, cornea, heart, kidney, lung and pancreas. Over one million people worldwide have benefited from successful organ transplants. However, as we are all aware, the need for tissues far exceeds supply.

The potential of supply, therefore, from cadavers is much greater from that of live donors. However, notwithstanding, as far as the removal of tissue from a dead

body is concerned, the Bill requires the authorization of a designated officer and stipulates the circumstances under which he could make such authorization.

Clauses 16 and 17 allow such harvesting of tissue for the purpose of transplantation and other therapeutic, medical and scientific purposes. Pursuant to clause 17, the designated officer is mandated to make reasonable enquiries to determine whether the deceased had, during his lifetime, consented to or expressed a wish for the removal of tissues from his body after death. However, the designated officer can authorize the harvesting of tissues from the body of a deceased if the relative of the deceased agrees, providing that the designated officer has no reason to believe that the deceased had, during his lifetime, expressed an objection to it.

Further, clause 17(2) provides that:

“The authorisation of a designated officer...shall be restricted by the expressed terms of the wishes or consent of the deceased person, or the consent of his nearest relative, as the case may be, both as to the tissue which may be removed and as to the purpose or use of such tissue.”

Clause 18 specifically prohibits the harvesting of tissues before death has occurred under this particular Part. “Death” is defined in *Chambers 20th Century Dictionary* as:

“The state of being dead or cessation of life.”

Stedman’s Medical Dictionary adds to this:

“In multi-cellular organisms, death is a gradual process at the cellular level with tissues varying in their ability to withstand deprivation of oxygen.”

There is, therefore, a conceptual conflict between the layman and the doctor, the latter being forced to accept an academic formula such as “death being a permanent state of tissue anoxia”. Tissue anoxia arises naturally in two ways, either respiration ceases in which case there is a failure to breathe oxygen, or the heart fails when oxygen is no longer distributed to the tissues. In either case, the diagnostic problem lies in the definition of “permanence”.

Accordingly, clause 19(1) provides that:

“...a person is considered dead when there has occurred—

- (a) irreversible cessation of all functions of the brain stem of that person; or
- (b) irreversible cessation of circulation of blood in the body of that person.”

Subclause (3) provides that:

“The Minister shall, by regulations, prescribe the criteria for determining the irreversible cessation of all functions of the brain stem of the person...”

Mr. President, “brain stem death” is defined as the:

“irreversible cessation of all functions of the brain stem...”

Brain stem death is diagnosed on the demonstration of the absence of brain stem reflexes in a patient with a known case of severe or irreversible brain damage. Diagnosis is not normally considered until at least six hours after the onset of coma and if cardiac arrest was the cause of coma, until 24 hours after circulation has ceased. Though electro-physiological, radiological or other tests may be used, it is common practice that this diagnosis is made by simple, reliable, bedside demonstrations of the absence of brain stem reflexes.

Subclause (2) seeks to prevent conflict of interests by prohibiting medical practitioners who have:

“...a familial or professional relationship with the proposed recipient...”

from taking any part in the determination of death of the donor of the tissue. Further, it also prohibits the medical practitioners who have determined the fact of death from participating in the transplantation of the tissue.

A policy document entitled “Protocol for the Diagnosis of Brain Stem Death” has been prepared by the Ministry of Health and is to be followed by the entire health sector. Moreover, the Ministry is currently engaged in the preparation of regulations governing this area and other incidentals to this Bill.

3.15 p.m.

Clause 20 treats with the circumstances where there is reason to believe that based on the manner of death, the coroner has jurisdiction to hold a preliminary inquiry or an inquest into the manner and cause of death of the person under the provision of the Coroner’s Act. This clause mandates that the designated officer ensures that no tissue is removed from the deceased person unless the coroner has stated that he has no objection to the removal.

Part IV deals with the donation of blood from adults and minors. This is made simpler than the donation of tissues.

Mr. President, Part VI of the Bill explicitly prohibits the trading in blood and human tissues, including the advertising of such transactions, making such acts a criminal offence.

Part VII deals with several miscellaneous issues, including making the removal of tissues contrary to provisions of the Act an offence. It also deals with the issue of confidentiality and lists the conditions under which information may be released.

Finally, Mr. President, clause 28 gives the Minister the power to make regulations for giving effect to the Act and lists, in particular, four specified areas. I do not think there can be any disagreement as to the necessity and, in fact, the urgency of this piece of legislation. As I mentioned, it can facilitate better health for many persons and, in fact, can mean the difference between life and death for others.

We have attempted to consult as widely as possible on the provisions of this Bill, and I can say that many organizations, including the medical fraternity, are more than eager to see this piece of legislation enacted. However, we will like to pass good legislation, and I look forward to the contributions in this debate.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, it is after 3 o'clock this afternoon and we have already had a display by the Government where well over 100 man hours of Senators in this Chamber have been wasted in an exercise that really should have been done by a select committee. I am not going to waste anybody's time this afternoon, so I will be brief.

The Minister indicated that the Bill is desirable and it is urgently needed. I certainly did not get the view from the physicians whom I spoke with that this Bill is urgently required. That it is appropriate and required, I have no doubt. It is the statement that it is urgent, I am not sure that I am in agreement with.

I know the Bill already went to a committee of which I was a nominated member, and I regret to advise that I was unable to attend any of the sittings. However, Mr. President, I had spoken the first time that this Bill came to the Chamber, and my comments were quite simple and quite clear. I thought that at least that would have been looked at when the committee did its deliberations. Unfortunately, I think they missed the focal point behind what this legislation should have been doing.

What this Bill should have been making provision for is the effective and smooth transfer of tissue from one person to another, and it fails to do that. I pointed out that in the United States and Canada and Australia where there is

legislation that precedes us, the major difficulty in dealing with transplantation is particularly in the issue of the extraction of organs, and so forth, from corpses, is how those organs are allocated to persons who are waiting for them—particularly things like kidneys. I spoke about that in my first contribution and, quite frankly, that is the one thing that this Bill completely misses.

It can either be done as part of the legislation, or it can be done by regulation. I heard the Minister say absolutely nothing about it, and quite frankly, if there was going to be a leap forward in terms of what we are doing here, it would have been to recognize that there is a need for an efficient and effective means of transferring organs that can be reused and, it must be done in such a way that some kind of a priority rating be set up.

Dr. Rafeeq: I thank the hon. Senator for giving way. I omitted to mention that during the committee stage I plan to move an amendment to clause 28 that is dealing with regulations to add an (a) which will deal with allocation of organs.

Sen. D. Montano: *[Laughter]* I am sorry that after the fact that it went to committee and I am on my legs, the Minister now stands up to tell us he has something to deal with that. I do not know if I should say anything more about that, other than to stress the fact that the leap forward in this type of legislation would have been in trying to arrange the priorities; who should come first in terms of the organs. It is a very serious issue.

The other thing that I mentioned in my first contribution, and it is relevant here because again, it has been missed, is that in dealing with the question of minors and the question of the consent of a parent, I think that the legislators have overlooked the fact that with any child, there are two parents, and that one parent might not necessarily agree with the other. That has not been dealt with here. Certainly in situations where the parents do not cohabit, I think that it is absolutely vital that both parents have equal rights in saying yea or nay, as the case might be. This has been completely overlooked in the situation.

I am also not in agreement with the position of the Minister where he says that as regards non-regenerative tissue, there is an absolute ban on transplantation from minors. I am not altogether certain that is an appropriate situation, particularly in the situation where there is a parent who might have identical twins and one has a kidney which can save the other's life. This Bill puts an absolute ban on it and says it cannot happen. I think that would be most unfortunate. There must be provisions to allow things like that. It is a well-recognized condition in

law that parents must be able to make decisions for their children, and I do not see that that is inappropriate in this case at all.

With those few comments, I thank you.

Sen. Prof. Julian Kenny: Mr. President, I also will be quite brief. I served on the Joint Select Committee, and some of the information given to us by the Chief Medical Officer indicates that we have a serious problem and that there is a degree of urgency.

Right now, if one needs a corneal transplant, the corneas have to be brought in from abroad. There are quite a large number of persons who are desperately in need of kidney transplants, and the only way in which they can have a transplant of the kidney is if they have a live donor, so there are comparatively few people who can benefit. I suggest that there is an urgency for this kind of transplant.

I think that Sen. Montano has raised issues which I think are really extreme cases. This legislation is to set us on the path of doing fairly routine things that are available abroad. So, the Joint Select Committee spent several meetings on this and it is, to me, a good piece of legislation. Again, like Sen. Montano, I was a bit concerned that the previous Bill that we spent so much time on, which we still have not completed, could not have been dealt with in this way, in the same way that the DNA Bill was dealt with. I think, in fact, that a lot of our legislation, when it gets up to this size and becomes highly technical, really ought to go to joint select committees before they come to the House. So, I support this legislation.

Thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, I too would like to support the Human Tissue Transplant (No. 2) Bill, but I would like to share with you, Sir, some very serious reservations I have about the Bill. In clauses 3 and 5 dealing with provisions for designated officers, I am very concerned about the provisions dealing with the suggestion for the transplant or the removal of tissue to be given by a medical practitioner. Of course, given by a medical practitioner who is appointed by the Chief Medical Officer.

I considered this entire matter to be so serious—the transplantation of human tissue and organs—and I personally believe that one medical practitioner, one fellow who is giving, other than the person who may perform the operation—which is how I understand the Bill—is a dangerous precedent. I do not believe that such a serious matter should be in the “hand” of a medical practitioner. I

think there should be a panel of medical personnel to give the kind of authorization for this. I am totally against that. I really believe that it is a dangerous precedent and there is need for us to look at this.

On the question of donation, this point I am going to make is linked to the first one about who has the power to authorize the removal of tissue and organs. When one looks at all those clauses, clause 8 and following, concerning the donation of tissue and the obtaining of tissue for minors, Mr. President, there have been too many stories and some of them come from overpopulated countries like Brazil.

There are too many sad and bizarre reports from such countries where street children and many poor people simply disappear, and many in the world believe that there is a murderous trade in human tissue and organ transplant. I am happy for a Bill like this, because we are closing the doors, at least for Trinidad and Tobago, on those who would like to prey on our society.

This Bill should really be discouraging any kind of exploitation as far as the use of organ and tissue is concerned. We definitely must discourage the sale of body parts. We have to discourage that, because it seems to be big business in some parts of the world and our neighbours too, who are so very close to us. Also, Mr. President, because of the seriousness of this whole matter of the removal of body parts and the transplant of human tissue, I really do not believe that clause 25, which deals with persons who contravene the Act being fined only \$50,000 and/or imprisonment for two years, is adequate. There are people who would pay millions for a kidney and we need to look at this.

Take the eyes. Can we buy sight? Those who can afford it will pay big money for eyes, and if a doctor, a medical person, a consortium or individual is involved in this kind of trading and might be found guilty, I do not believe that a \$50,000 fine and/or imprisonment for two years is sufficient, as far as penalties go in this Bill.

3.30 p.m.

Basically, notwithstanding these reservations—I hope they will be addressed because I consider them to be very serious issues—I would like to lend support to this attempt to regulate, as it were, the whole business of human tissue transplant and organ transplant.

I want to congratulate the Government for this new legislation, I think. It is new legislation and I want to congratulate the Government for, at least, a start in this direction. But, I share these very important concerns with you.

I thank you very much, Sir.

Sen. Nafeesa Mohammed: Mr. President, I would just like to make a very brief intervention having listened to the debate so far. In looking at the provisions in this Bill, one of the areas that was of concern to me is the situation involving the transplanting of sex organs.

Nowadays in our country—I have read in the newspapers, and I know of one particular case where a sex change operation was, in fact, carried out in our country. In terms of the provisions of this Bill, there is nothing specific about it, but there are issues that would arise in the event of the transplanting of tissues: be it the testes or the ovaries. There are serious questions of genealogy that would arise. I do not know to what extent the committee may have looked at these issues.

With respect to kidney transplants—this comes under the category of non-regenerative tissue transplants—in our country today we know for a fact that there are many people suffering with disease of the kidneys. One of the big problems is the availability and cost of dialysis. It is not very often that we have the Minister of Health with us in the Senate. I would be very happy if he can give us an idea of the extent to which dialysis is available in the institutions, the hospitals in our country and so forth—and an idea of the cost of it.

There is another issue that arose in the debate dealing with the situation after death and the removal of organs. In our country there are so many funeral homes. In almost every district one can access a funeral home. I am wondering about the extent to which there are procedures or machinery in place to monitor the operations in these homes. I am sure that they have morticians but who is there to say that one cannot remove some tissues when dealing with a dead body?

In our very mixed society—depending on our religious beliefs—we are allowed to go into a particular funeral home and bathe the dead according to our religious practices. To what extent are there checks and balances to ensure that these kinds of activities would not take place? I am merely raising it as a general area of concern because I cannot recall hearing that the funeral agencies were included in the consultations.

I thank you, Mr. President.

Sen. Prof. Kenneth Ramchand: Mr. President, I just want to make a brief, learned and allusive contribution. I welcome this Bill as containing the promise of a solution to many of our social, cultural, political and sexual problems since it seems to make possible a realization of the vision of Trinidad Rio in a calypso called “Body Parts”.

Thank you, Sir.

Sen. Diana Mahabir-Wyatt: Mr. President, like the others I am all in favour of this Bill and I would like to congratulate the Government on bringing it forward today.

I am particularly pleased by the inclusion in this Bill of the clause that deals with the donation of tissues by minors because it recognizes—this is amongst the few Bills to do so that have come before us in recent times—and includes in it, provisions that are directly influenced by Articles 12, 13 and 14 of the Convention of Rights of the Child which this country has ratified. This being the 10th Anniversary of the Ratification of the Convention of Rights of the Child, it is really gratifying to see that these provisions have been included in the legislation. These provisions specifically demand that a child be heard in relation to issues which affect the child.

While I have the greatest of sympathy with Sen. Montano's point about both parents being consulted if they are available, I realize that very often in our culture, while one may have two parents who are alive, one parent may be unavailable to be contacted. If anything like that is to be contemplated, I think the consent, really, should be up to the parent that has the care and with whom the child is living. I was going to say custody but I do not mean that in a legal sense because it may not be legal custody.

I wonder if the hon. Minister, in winding up—for those of us who are lay people—could give us an idea, apart from kidneys, lungs, heart, liver and eyes, what other non-regenerative tissues are normally transplanted in Trinidad and Tobago, or if there are any apart from those.

Thank you, Mr. President.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I want to thank all those who made contributions in this debate. I will try to respond to the few concerns that have been raised.

Firstly, Sen. Montano mentioned that the doctors he spoke to did not see the urgency of this piece of legislation. I just want to read from the Trinidad and Tobago Medical Association's submission. This is the submission, on this Bill, by the Trinidad and Tobago Medical Association. It says:

“On behalf of the Trinidad and Tobago Medical Association, I beg to point out that this legislation has been awaited for more than a decade, in relation to certain transplants as a result of which so many of our citizens suffer unnecessary loss of sight and others. The same may apply to other tissues like kidneys and possible hearts...”

The medical fraternity does see the urgency in this piece of legislation.

I did mention that I would be moving an amendment dealing with the allocation of organs to be dealt with in regulations.

I want to deal with the issue which Sen. Rev. Teelucksingh raised; that is: advice should not come from one person. Mr. President, clause 4 of the Bill states it must be:

“in the light of medical advice given...by a medical practitioner...”

That is one area. A medical practitioner must give the advice to the person who is about to donate the tissue. That is one person who has to interact and give advice. That advice may be in writing signed by him in the presence of a designated officer: advice with which he agrees. That is the first part.

Secondly, clause 4(3) states:

“The designated officer shall, before removal of the regenerative tissue, certify in writing, that—

- (a) all requirements...have been complied with;
- (b) he explained to the donor the implications of removal of the regenerative tissue from the body; and
- (c) the donor understood the implications of removal of the regenerative tissue from the body.”

3.40 p.m.

So, there are two medical practitioners who are involved: the first is the medical practitioner who gives the advice; and the second is the designated officer, himself or herself, who ensures that the advice is given about the implications of the removal and the donor understands the implications of the removal. So there are two people involved, not one.

Sen. Rev. Teelucksingh: Are you satisfied that as far as checks and balances go and as far as the avoiding of corruption is concerned that this is sufficient proviso to make sure that you do not have this exploitation of the human person?

Dr. The Hon. H. Rafeeq: We feel that we have put sufficient safeguards within the Bill to deal with that. As I said, we have special consideration for regenerative tissue, non-regenerative tissue and particular provisions to deal with minors.

Human Tissue Transplant (No.2) Bill
[HON. DR. H. RAFEEQ]

Tuesday, November 30, 1999

Sen. Rev. Teelucksingh also mentioned that the fine is too small. Mr. President, when we brought this Bill initially the fine was \$25,000 or imprisonment for one year. During the deliberations of the committee, this was what was agreed on: \$50,000 or imprisonment for two years. That is what the committee decided on. If there are other suggestions during the committee stage we can pick that up.

Sen. Mohammed mentioned the issue of dialysis. Mr. President, this Bill is one of the answers to dialysis. Dialysis is an extremely expensive proposition and, as she mentioned, and quite rightly so, there are many persons in Trinidad and Tobago who are suffering from renal failure and require dialysis. The Government, really, is not able to provide dialysis for all the patients who require it. This Bill is one of the answers to dialysis; the transplantation of kidneys.

She also mentioned the issue of funeral homes. I also want to mention in passing, that there is before the Legislative Review Committee right now a draft Funeral Homes Bill. It will be coming to Parliament, maybe within the next month or so; it will deal with the regulations for funeral homes.

Sen. Diana Mahabir-Wyatt asked about other tissues that may be—pancreas is one, the liver is another one. Maybe there are others of which I am not aware, but at least these two have been included.

Mr. President, with these few words, again I thank all those who have assisted in bringing this Bill to where it is at present. I particularly thank the members of the joint select committee who attended and made valuable contributions to this Bill.

Mr. President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Hon. Senators, this is a Bill that contains 8 parts and 28 clauses and, with your permission, we will deal with the Bill in parts except, of course, where there are proposed amendments, we will deal with those clauses individually. Do I have your consent?

Assent indicated.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

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

Dr. Rafeeq: Mr. Chairman, I beg to amend clause 3(4) as follows:

In line two insert the words “or transplant to” after the word “from”.

[Discussion]

Mr. Chairman: So it would read:

A designated officer shall not participate in any of the medical procedures involved in the removal or transplant of tissue from the body of a person to which Parts III and V relate.

Sen. Montano: Mr. Chairman, that really would not read—Are you not really trying to say “the removal from and a transplant to”?

Dr. Rafeeq: Yes.

Mr. Chairman: You want us to reword it?

Dr. Rafeeq: “Removal of tissue from and transplant to.”

Mr. Chairman: So the clause should read:

“A designated officer shall not participate in any of the medical procedures involved in the removal of tissue from or transplant to the body of a person to which Parts III and V relate.”

Sen. Rev. Teelucksingh: May I ask the Minister a question about this designated officer? He worries me. You have in clause 3(1) that the Chief Medical Officer is going to assign or select someone for a hospital. What about the nursing homes? Many operations—and you have so many specialists in the nursing homes, which are not all hospitals in Trinidad and Tobago, at least, not as yet. What about the regional health divisions? Would there be one person for the territory: one for the hospitals and so forth? Could you explain this?

Dr. Rafeeq: There will be one or more per hospital, including private hospitals.

Sen. Rev. Teelucksingh: Thanks.

Question put and agreed to.

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

Clauses 4 to 21 ordered to stand part of the Bill.

Clause 22.

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

Dr. Rafeeq: Mr. Chairman, I beg to move that clause 22(1) be amended as follows:

In line two, insert the words “blood or” after the word “any”.

So it would read:

“No person shall advertise, issue or cause to be issued any advertisement relating to the buying or selling of any blood or tissue from the body of a person.”

So we are dealing with advertisement relating to the buying or selling of any blood or tissue.

Question put and agreed to.

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

3.55 p.m.

Clauses 23 and 24 ordered to stand part of the Bill.

Clause 25.

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

Mr. Chairman: There is a proposed amendment by the hon. Minister.

Dr. Rafeeq: Mr. Chairman, there are two small amendments. In clause 25(2), I would like to propose the amendment to read; “tissue, blood or bone marrow” to delete the word “bone marrow” because “bone marrow” is already picked up in “tissue.” It should read:

“(2) No person shall remove or cause to be removed any blood or tissue from the body of a living person.”

[Interruption] For consistency, yes, “blood or tissue.”

Mr. Chairman, in subclause (3) in the first line, the word “subsections” to read “subsection (1).” And it reads;

“Any person who contravenes or fails to comply with subsection (1) or (2)...”

Question put and agreed to.

Sen. Rev. Teelucksingh: Mr. Chairman, I want to comment on that. I am very happy that—when the Minister’s Select Committee was looking at this the fine was increased from \$25,000 to \$50,000. We are considering this to be very, very serious legislation, and people can actually trade in the exploitation of other persons and so forth. This could be real big business. I wonder if the hon. Minister would not consider a fine that is, maybe, one that will really prohibit—close the door as it were—not \$50,000, maybe, \$1 million or 10 years in jail; something like that. That is the kind of thing you need. Fifty thousand dollars is joke! And if you increase from \$25,000 to \$50,000, I am saying if we are really serious—and these days \$1 million is not plenty; not in our society. I do not have that. *[Laughter]* I hope you see how serious this is, I consider this to be a very, very important matter and \$50,000 is joke!

Thank you.

Sen. Kuei Tung: Mr. Chairman, I am glad that a man of the cloth considers \$50,000 a joke, Sir. *[Laughter]*

Sen. Rev. Teelucksingh: Mr. Chairman, the point I am making, you cannot put a price tag to life. You cannot do that. Therefore, there are persons who could really exploit a situation like this.

Thank you.

Dr. Rafeeq: Mr. Chairman, I take the point and I am being advised by my technical officers here that we should make it \$100,000 or five years imprisonment.

Question put and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the hon. Minister.

Dr. Rafeeq: Mr. Chairman, in subclause (2) I want to propose that where a designated officer is convicted under subsection (1), in addition to the fine imposed, his appointment as designated officer shall be deemed to be revoked. Rather than having to go through the formality of revoking his appointment which may take a long time; it would be automatic. So the amendment would read:

“Where a designated officer is convicted under subsection (1), in addition to the fine imposed, his appointment as a designated officer shall be deemed to be revoked.”

Sen. Rev. Teelucksingh: Mr. Chairman, can I ask how does the Medical Board feel, whether they should have a licence to practise in this country? That is important.

Dr. Rafeeq: That will go through the normal process. There is a procedure for that.

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 27 ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill

Mr. Chairman: Hon. Senators, there is a proposed amendment by the hon. Minister.

Dr. Rafeeq: Mr. Chairman, I wanted to add a subclause "e" which will state "to the allocation of tissues," regulations will also be made "to the allocation of tissues".

Mr. Chairman, in terms of drafting, in subclause (c), the word "and" would be removed, and then in subclause (d) the word "and" would be added, and add subclause "(e)" to the allocation of tissues.

Question put and agreed to.

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

Schedule ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, with amendment; read the third time and passed.

4.05 p.m.

**HUMAN REPRODUCTIVE AND GENETIC
TECHNOLOGIES (NO. 2) BILL**

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I beg to move,

That a Bill respecting human reproductive technologies and commercial transactions relating to human reproduction be now read a second time.

Mr. President, this Bill was also presented in the last session of Parliament and was referred to a Joint Select Committee. The committee concentrated its efforts on the Human Tissue Transplant Bill and did not get around to the consideration of this particular Bill.

This technology is advanced especially in the field of genetics and as they become commercially available, we need to be prepared and put the necessary regulatory framework in place to deal with them.

This Bill seeks to deal with issues such as cloning, *in vitro* fertilization, surrogacy and the determination of gender of babies, among other things.

Mr. President, some consultations have already taken place on these issues, but we would like to engage the population, particularly special interest groups, in debate on these issues.

I propose therefore, that this Bill be referred to a Joint Select Committee of both Houses of Parliament.

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, this Bill is indeed of tremendous interest to me as I am sure it is to many other Senators in this Chamber, for reasons that may well be obvious, but I am very relieved and happy to hear the hon. Minister say that he intends to have this Bill referred to a Joint Select Committee to facilitate some further consultation on it, because the issues that arise out of this Bill are issues involving cloning and surrogate motherhood. The Bill sets out a number of different situations which indeed are issues that have tremendous legal implications, but moreso, moral and ethical issues arise in these matters, particularly in a society like ours where there are so many different religious and social points of view. I think it is very important that the views of various organizations, and of course, the experts in the field be taken on board as we legislate for these issues.

The hon. Minister mentioned that with the advancement in technologies we need to set some type of legal framework, and in Trinidad and Tobago, one of the areas that we need to put a tremendous amount of emphasis on, at this point in time, is the area of reproductive health particularly for women. I say this because when one looks at our health institutions, one would realize that our health system is indeed in crisis notwithstanding the public relations exercises being embarked upon by various interest groups within the health sector.

I certainly would ask the Minister to give us some information at an appropriate time, for example, on issues relating to the number of surgery procedures that take place annually in our institutions. I raise this as an issue because I am informed that in this last year at the Port of Spain General Hospital they had the lowest number of surgical procedures being undertaken over the last 15 years and just by way of comparison, I believe the figures may range around 3,000 operations for the year as compared to figures in 1994/1995 where some 8,000 operations had in fact taken place at the Port of Spain General Hospital.

This may sound like a trivial issue to some people, but this is the kind of issue that affects thousands of citizens of Trinidad and Tobago, the man-in-the-street and the people out there who depend on the services of our health institutions, be it the Port of Spain General Hospital or the San Fernando General Hospital. There are many people who cannot afford to go to a nursing home for health care and they have to resort to the hospitals. Instead of the situation improving, it is deteriorating and there are very important issues and it is only because the Minister of Health is here that I am making a very passionate plea to him to look into these issues.

Mr. President, we know that many people—just as dialysis is a big issue—are experiencing kidney problems so too with the eyes. That has become a common problem now. So many people have to have cataract operations, I understand that the waiting period for eye operations now ranges from two to four years. The Minister, and the newly appointed junior Minister in the Ministry of Health I am sure will be able to give us some statistics on these issues, but when you come to basic health care and services like these, you will see that we are in crisis.

At the same time we have so many thousands of women who need special attention, women who are experiencing problems whether it is because of fibroids or whatever the reproductive diseases or health problems may be. How are they going to get health care? It is only if you have a few thousand dollars and can afford to go to a nursing home that you can go for one of these operations. Nowadays, with the advancement in technology for some of these reproductive health issues or problems you need only be hospitalized for a few days or weeks.

With the traditional type of surgical procedures they would actually make a very long cut and do what they have to do. Nowadays there is laser technology and in a matter of hours a person can go into a facility and be treated and as a result get some relief from the particular ailment they have, but how far have we reached in Trinidad and Tobago with that kind of technology? I am informed that

there may be some laparoscopy procedures available in a couple of our nursing homes, again which are privately run institutions, but even though you have the laparoscopy procedure, the actual laser laparoscopy procedure is not available and that is a new technology that is being used to deal with diseases such as endometriosis. It is being used for the removal of cysts, and very technical and delicate kinds of surgery are being done with this. These issues may sound far out to some people, but I am informed that two out of every five women who visit gynaecologists go there because of some kind of fertility related problem and it tells you that our women in Trinidad and Tobago in particular, require some special attention.

I am raising this because Sen. Vimala Tota-Maharaj is here, and I have every confidence that this is an area in her new portfolio that she will be pursuing with much vigour and enthusiasm because it is a much needed service in our country.

Mr. President, if you have to go for some of these treatments, it is only if you can afford to go abroad that you can do so and if you do go abroad it costs something like US \$10,000 or US \$14,000. From where is the money going to come? Apart from that, we do not have proper health insurance schemes available in our country. In fact, if you check any of the medical insurance schemes they have available, you will see when it comes to reproductive issues, they do not cater for that in Trinidad and Tobago and we do not have a National Health Insurance system. That is a system that when the decentralization process was being embarked upon, it was supposed to go hand in hand with the establishment of our regional health authorities and I am wondering what is happening with that move towards establishing a national health insurance scheme. These are things that the citizens of our country need. Proper health care is a necessity for our society and I am pleading with the Government to please put some emphasis on it. Please focus on it.

We know that the regional health authority system was recently established and they have their teething problems and the Minister has been trying to grapple with some of the problems, but in the meanwhile there are several other things that need to go hand-in-hand with it, and people out there are suffering in the rural areas. How are these women who have these basic problems going to be treated? How are they being treated? Simple things like doing a pap smear or doing other very basic procedures. We need to ensure that these services are made available and accessible to all the people of Trinidad and Tobago. [*Desk thumping*]

Mr. President, with respect to the legislation and the issue of surrogate motherhood I know that there are views for and against. I have looked—just like my colleagues have—and have been able to get some information on it. From an Islamic point of view, for example, it is felt that surrogate motherhood—and

again this will just be from one particular Islamic school of thought. It says in a document that I have which was taken from the Internet, it refers to a view propounded by the Alazar University that surrogate motherhood—that is where a woman carries in her womb the foetus of another couple—is absolutely unacceptable to Islam. It results in the dichotomy of motherhood into genetic and biological, whereas these should be one, and it entails that a contractual and legal issue arises. We have seen many movies involving surrogate motherhood and it is a very contentious issue.

4.20 p.m.

After the baby is born, who has rights over the child? This is a baby nurtured in a woman's womb and, of course, it involves a certain kind of genetic development and so forth. So these are very topical issues.

Mr. President, the question of *in vitro* fertilization. Nowadays, in Trinidad and Tobago we know that some attempts are being made with respect to *in vitro* fertilization but the success rate, I understand, is very low and it is a very costly procedure. The question of *in vitro* fertilization involves—one view that is propounded is that it should be a husband's sperm with a wife's ovum because it entails the question of bearing a child and so it involves a marriage contract and so forth. That view I just propounded is an Islamic view and without wanting to be too personal about it, it is just a view that I am expressing for the benefit of the Members who may be serving in this particular committee.

The question of cloning that is since—I think it was in Scotland that the cloning of the sheep took place and that has raised some new concerns. I have a document here, where in the United States of America, they say that the Jewish and Islamic communities and so forth have a different point of view. It is a situation involving mixed feelings. I am sure perhaps, Sen. Rev. Teelucksingh may have some views on that. In any event, we are indeed very happy to know that there will be further discussions on this particular Bill.

With these few words, I just want to repeat the plea to please concentrate and focus some resources in the area of not only women, but reproductive health of men and women. There are thousands of men out there too with low sperm counts, and I do not know they may need help or the technology to determine these things.

Mr. President, I thank you very much for the opportunity. [*Desk thumping*]

Sen. Prof. Julian Kenny: I will be very brief on this one. Clearly, this is legislation which we need. Whether we need it urgently is another matter. I think, in fact, the problems that arise with these peculiar technologies which are developing, might best be dealt with by protocols which can be agreed with the principal places where such things might be done, that is, at the Mount Hope Medical Sciences Complex and at certain private hospitals. I cannot see the general hospitals getting involved in this sort of thing. They already have horrendous problems. I think that in the legislation, we really have to address the issue but I do not think that the urgency of this compares with that of the Human Transplant Bill. I am pleased that the Minister is going to propose that we go to a joint select committee.

Mr. President, every time I see legislation, especially of this kind, there is cause for concern because we seem to be in the hands of the lawyers, and the argument is always, well this is what is done. I am going to make some brief comments on the Bill. First of all, there is clearly an error in the interpretation clause where the definition of an “embryo” is exactly the same as the definition of a “foetus”. If you read this it cannot be a typographical error. Clearly, there is something very wrong here, somebody has been careless in typing up this. I think that what they are driving at the embryo—I am going to speak about embryos in a minute. During the period of its development beginning on the fifteenth day and then going on to the fifty-sixth, in other words, there is a certain period of time in which we are dealing with the human organism which is an “embryo”. Then beyond this, the thing develops further but you cannot use the same terminology there. I think what was really meant there is the “foetus” which means a human organism from the fifty-sixth day or the fifty-seventh day—to be technically correct—to parturition is the “foetus”. I hope the Minister has got my drift there.

Mr. President, it also worries me when I see terms that have very clear meanings in science perverted to the law. A “zygote” has a very precise meaning in science and I am going to suggest another word. You see, the “zygote” is formed when the nucleus of the spermatozoon fuses with the nucleus of the ovum and it is one cell. This is what a “zygote” is. It comes from antiquity that means twin. It is the twining of the two bits of genetic material; thereafter you go through a process of cell division. And in embryology you go through from one cell to two, to four, to eight and to various stages and so forth. I think actually—I do not care what people do internationally—a better word here instead of “zygote” could be “conectus” because it takes you from the “zygote” stage to what we might call the “blastular” stage where it is many cells. It is not a formed organism; there is no orientation; it is a ball of cells.

I think that once you have a determination of the form, that is where you form a spinal cord in the brain, then you could start talking of foetus. I am talking a sort of technical language of embryology. I know that we are pressured into using these terms. I remember other legislation where “a fish” meant anything including an oyster, a mammal and so forth. I mean, this is some of the peculiarities of the law. The “zygote” is a very precise stage in the development. Beyond this I think, once the thing starts developing or before it becomes distinguished as having a long axis and so forth, the word “conectus” might be more appropriate.

Mr. President, when one looks at clause 3, all these things, I do not think that anyone in this country will agree to accept many of these things as being permitted in our country. I am not going to go into that, but mixing animal and human is clearly morally indefensible. Any civilized country that permitted this is clearly depraved. If you go to clause 3(1), all the way down—I have checked them there—fertilizing of the human ovum with animal sperm or fuse human and animal zygotes and embryos. I cannot imagine how any scientist who has any moral sense would do something like this. Certainly, I cannot see it happening in our country.

Mr. President, we go through all of these things, retrieving an ovum or sperm from a foetus or cadaver. I cannot see how the legislation really prohibits. What does the legislation actually permit? In fact, very little. Clearly, I think the framers of this legislation do not wish any parent or potential parent to determine the sex of the child, to use any procedure. Now, this is a moral issue which can be debated in due course. There is a prohibition against the fertilization of an ovum outside the human body for the purposes of research. There is no prohibition about permitting this for purposes of fertilization or re-interaction of a fertilized, I say, “conectus” into the uterus of the parent using the sperm. So I am not quite sure why this is prohibited. I cannot see a justification for spending money for people to be doing research in just making organisms and then discarding them. That would be the research end of it.

4.30 p.m.

I was a little concerned that the only sort of diagnostic procedure permitted would be an ultrasound. I raised this concern before with the hon. Minister of Health. It is a reality of the human condition, in fact of the condition of many organisms, that a woman in the third month of pregnancy contracting a viral infection or coming into contact with chemicals of one kind or another can develop birth defects. One of the most common ones, as we all know, is rubella.

Now, when this happens, the probability is extremely high that one will have deleterious effects and, in extreme cases, complete deafness may result and one may have quite serious disorders.

Now, let us face reality. In this country, if you are a woman in your second or third month of pregnancy and you come down with rubella, is the state going to say that you cannot use techniques, other than ultrasound, to determine genetic disorders? The other thing is that there are people who may know they have certain genes which, in the double recessive condition, will create serious abnormalities. Now, does the state wish to deny the individual the right to determine if there is a serious genetic disorder? I do not make the moral decisions but, in the case of rubella, if one has money, I do not know whether one gets this procedure at the general hospital if one has this problem, but one may go to a general practitioner and one may have an abortion. This is done in this country repeatedly. We pretend that abortion is a crime but it happens. So, I question whether you want to put this prohibition on determination of genetic disorders and I believe that amniocentesis is an option that really ought to be permitted.

Now, the thing is that if one is pregnant and goes to the United States, one can have an amniocentesis as a matter of course and if trisomy is discovered one can opt for an abortion. It is permitted. These are some of the issues. They are moral issues but, in general, I think that we have to be thinking about them. This affects such a small group of people that I wonder whether, in our legislation, we might not find a formula for managing them by some agreed protocol rather than coming with a series of fierce prohibitions. Thank you, Mr. President. [*Desk thumping*]

Mr. President: I think we will complete this Bill and not have the hon. Minister return after tea.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Thank you very much, Mr. President, for the consideration. Several issues have been raised and, as I said, all these issues need further consideration and wider consultation. Therefore, Mr. President, I would not respond to any of these issues now. I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move the following Motion:

Be it resolved that the following six members of the Senate be appointed to serve with an equal number from the House of Representatives on a Joint

Human Reproductive and Genetic Bill
[HON. W. MARK]

Tuesday, November 30, 1999

Select Committee of Parliament to consider and report on the Bill entitled, “an Act respecting human reproductive technologies and commercial transactions relating to human reproduction”.

Mr. President, the members are:

| | |
|--------------------------|--------|
| Mrs. Vimala Tota-Maharaj | Member |
| Mrs. Carol Cuffy Dowlat | Member |
| Brig. Joseph Theodore | Member |
| Mr. Danny Montano | Member |
| Prof. John Spence | Member |
| Prof. Julian Kenny | Member |

Mr. President: I have been advised that Sen. Diana Mahabir-Wyatt is to be substituted in place of Prof. John Spence.

We will suspend for tea and resume at 5.10 p.m.

4.37 p.m.: *Sitting suspended.*

5.13 p.m.: *Sitting resumed.*

ENVIRONMENTAL MANAGEMENT (AMDT.) (NO. 2) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [November 16, 1999]:

That the Bill be read a second time.

Question again proposed.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, if I sound as though I am trembling, it is because this place is so cold. [*Laughter*]

Mr. President, on the last occasion we debated this Bill, several Senators referred to the Tobago plan to have in Tobago a plant converting waste to energy/electricity. This afternoon I refer to the plan because it has implications for the environment. The Bill not only has implications for the environment, but several clauses bring in other departments of government.

For example, we have in the contract, I should say, implications for immigration and I will just read. Clause (i) of the contract says:

“to identify and provide two (2) months in advance a list of all designated personnel on a required basis for the construction period and for the

commissioning and operations of the plant and those persons requiring approval by the Government to reside in Trinidad and Tobago.”

So, Mr. President, the hon. Minister of National Security, through the Immigration Division, would have some say in the actual implementation of this agreement.

We also have implications for the Ministry of Public Utilities, and (f) says:

“Allow the Corporation to suitably identify and locate all required fresh water for power production and the required water volumes to meet the projected needs of the plant.”

So, we have to satisfy a water requirement. I cannot say whether this will be from treated or untreated water.

We also have implications for fuel import and it says:

“To provide, procure or obtain all required approvals, licences and permits from relevant authorities including permits to import bunker fuel, and approval to store either on or proximate to the plant site and to store, sell and ship any and all plant outputs and by-products.”

We also have implications for the Central Bank—and I hope the Minister of Finance will take note. It says:

“To permit the Corporation to operate as required with respect to the international movement of currency and payments to and from the corporation without restrictions or advice or documentation, but subject to existing and future legal requirements of the Central Bank of Trinidad and Tobago, provided always that the Corporation agrees to comply with designation of funds being ‘good, clean and clear funds of non-criminal origin’.”

Mr. President, those are some of the implications of the agreement for areas other than the environment, but we do have the areas that specifically relate to the environment. I want to mention them. There are probably about six or seven of them and I do not know, but I feel certain that the Tobago House of Assembly must have had some sort of consultation, discussion and agreement with, if not this present Minister, some arm of the Government dealing with the environment. Probably, the present Minister would have to search his files to see whether we had any prior discussions on this matter, because I believe the hon. Minister of Finance would have given some undertaking about all this transfer of money and so forth, or probably the Minister of National Security. But for the environment, I read some of the implications.

Firstly, it says that this organization, or this corporation that will run this plant will:

“efficiently and effectively take over or assume the responsibility the Assembly now has for the removal and disposal of waste material including household, factory, hospital waste and to take over or honour all contractual obligations of the Assembly vis-à-vis the said collection and disposal of garbage and waste material.”

This corporation will take over from the Assembly what they have been doing to have garbage removed from the districts of the island of Tobago.

Secondly, they are:

“to inform or advise the Assembly or its authorized agent on an annual basis in advance as to the volume and nature of the feedstock materials being imported or to be imported for use in the plant for processing and conversion to produce electricity provided always that there shall be no importation of waste or garbage.”

I tried to find out, Mr. President, since they are not going to import waste or garbage: what is feedstock? I was informed that feedstock meant bunker fuel and diesel. I cannot comment on it. I do not know. I am just throwing out to the learned Minister of the Environment to see whether in his winding up, he can make this clearer.

Thirdly:

“Where the Corporation is required to submit an Environmental Impact Assessment report (EIA), such shall be standard or such alternate as may be agreed upon between the parties;”

So, there is concern that there must be an Environmental Impact Assessment. It goes further. It says that:

“The Corporation shall be bound by United States Environmental Protection Agency standards as exist at present and shall comply, adjust, improve and/or alter its plant equipment and operation to conform with any amendment, improvement, alteration or change in the environmental laws and standards of the United States of America and Trinidad and Tobago from time to time during the existence of this contract.”

It goes on, Mr. President. I am dealing now with all the implications for the Environmental Management Authority. It says:

“Storage of waste, feedstock, finished product by-products and all material used in the plant and output of the plant shall be in an efficient and

appropriate manner as determined by the parties subject to storage agreements that may be in place from time to time between the parties; such storage being in compliance with environmental standards existing at that time.”

It goes further:

“On the request of the Assembly, to make modifications to the plant when the health and welfare of the persons and the environment are at risk as a result of some process or processes of the plant. Environment compliance shall be by self evaluation by the parties or their designated agent or agents who should have access to the plant and all records pertaining for the purpose of evaluating compliance.”

Furthermore, it says that the Assembly shall:

“Procure all required permits for the proposed plant site and any expansion to the site or future expansion to the plant that may be from time to time negotiated and agreed between the parties.”

—the Environmental Protection Agencies are most stringent and those of the United States of America Environmental Protection Agency shall apply.

Mr. President, I have tried to show that from this agreement between the Tobago House of Assembly and this United States corporation, there are implications, not only for the Environmental Management Authority, but implications for various arms of government and functions that are not assigned to the Tobago House of Assembly, like immigration, like the Central Bank and that type of thing.

5.25 p.m.

I am saying that I think it is time that the hon. Minister of the Environment probably have some sort of discussion with the Tobago House of Assembly to have the matter straightened out.

Mr. President, I understand from my own investigation that when this idea came up a number of years ago, we had a serious problem with a reliable supply of electricity. However, within the last year, the electricity supply to Tobago and in Tobago has been upgraded to such an extent that now we can say we are very comfortable. However, when the idea came into being, I understand that a lot of research was done and, in fact, a team left Tobago and visited a plant in Florida. From their inspection, questioning and investigation, the members of this team were very satisfied with what they had seen as the processes impacted upon the environment while transporting something from one environment where one

probably has wide space and enough garbage to fuel a plant like that from the surrounding environment. I have been hearing that in Tobago this is not the situation. In fact, what has been said is that Tobago does not produce enough waste to fuel a plant like this for the plant to be operated every day. Thus, they are saying that we will be forced to import some sort of waste, but the agreement strictly says that the importation of waste and garbage is prohibited.

I suggest that the Environmental Management Authority and the Ministry of the Environment—I am sure by now they would have had a copy of the agreement—sit with the relevant authority in the Tobago House of Assembly and see what could be discussed about what actually is to happen, because we have not had a definite pronouncement. We have had responses to queries and questions. For example, when mention was made that we would be importing garbage, somebody from the Assembly said, no, this is not the case. And when we read the agreement, it actually says they would not be importing any. When somebody asked about the meaning of feedstock, somebody reacted that feedstock meant bunker fuel and diesel.

Mr. President, I think to erase all doubt and to understand exactly what is going to happen, we need to have dialogue and discussion, and I think not only the Ministry of the Environment, but the Ministry of National Security where immigration would come in—because they would need work permits for these expatriates to come in. In the agreement, there are expatriates coming in to work and train local people, and also about the recruitment of local people and bringing in their plant, equipment, machinery, technology, and so forth. So, it is not only of concern to the Ministry of the Environment, but also to Immigration, Finance, Public Utilities and probably Energy, because probably the Minister of Energy and Energy Industries may be able to say that he could supply them with all the diesel and the things needed so that they need not import.

I am suggesting, Mr. President, that we do not look at it only from a standpoint of the environment, but as a total package, and that some sort of discussion should be held.

Sen. Prof. Spence: I just want to ask if the hon. Senator would also comment on another aspect which has been raised; that it would solve the problem of having to find garbage disposal sites in Tobago.

Sen. Dr. E. Mc Kenzie: Yes, Mr. President. Actually, that was the main reason given for the agreement to set up this plant. It was because the areas used

for landfill in Tobago are not properly managed. Up to this morning, we had somebody from Environment, Tobago on the radio station having a very informative discussion on it, and one of the things he said was that these landfill areas were not properly managed and, as a consequence, there was a very unhealthy situation. Villages around were affected by the smell and actual unsightly thing.

Apart from that, the areas were becoming filled up and, as such, they needed to have a different way of getting rid of the garbage rather than just by landfill areas. So, they thought that this plant would not prohibit totally the use of these landfill sights to such a minimal stage because this plant will use up and burn much of the stuff that one would have otherwise had to put in these landfills. It is serving a number of purposes. In fact, what was said was that the electricity conversion was just a by-product of the actual main purpose of the plant which was to get rid of the waste and garbage in Tobago. The conversion to electricity was a by-product of the energy that will be coming from the burning of this waste.

Mr. President, apart from these things mentioned, the people of the surrounding areas have begun to feel very uneasy about the health situation that could emanate from having a plant like this burning stuff in an area surrounded by traffic and people who reside a stone's throw, actually on the periphery of where the plant is going to be. They have talked about the ash that would be residual from the burning of the garbage, the oxides which will be set off in the atmosphere and there is a lot of disquiet and fear in the minds of people in Tobago.

I suggest to the hon. Minister that after he has studied the agreement, some sort of public pronouncement could be made in whatever way he would think it necessary and fit, because I cannot say from my layman's point of view whether this is good or not good. We do not have all the facts, and I think it is only by discussion that we could have all the facts, probably give some advice, probably see what modifications could be made. Whether he agrees with it or not, I cannot say, but I want to tell him that the people of Tobago who are concerned are looking at him and his Ministry for a pronouncement on this matter to set their minds at ease.

Mr. President, I hope that by my explanation and from my study of the Bill and the little reports that I have tried to investigate, that I have actually made some sort of contribution to make the hon. Minister feel compelled to get into the fray of it and to have some sort of public announcement or public education made to set our minds at ease.

Thank you very much, Sir.

Sen. Dr. Eric St. Cyr: Mr. President, the first thing I want to say is that we have a responsibility to care the environment and, if we do not, we endanger our own lives, our own existence and the lives of the human race. So, the parent Act passed in 1995 represented a most important step in the right direction, and the appeal I would like to make to the nation and to the activists in the realm of politics is whether we could rise above the politics and put the environment as one of the issues that we could agree to put beyond the political fray. [*Desk thumping*]

It seems to me, Sir, that for this amendment to not be *ultra vires* the Constitution, we need a proper majority. I think it is two-thirds majority. I want to make an appeal that we put the events of 1995 one side, and we say that this is just about the turn of the millennium. Let us put our heads together and agree to give a proper two-thirds majority to this amendment.

I have one difficulty though, and it is this. To the extent that the parent Bill did not have a two-thirds majority, I worry whether a two-thirds majority on this amendment would be adequate to deal with the legal issues and, perhaps, what we might want to do—and I do not know how we could get around to doing this—is to incorporate these amendments in the parent Bill, pass the whole thing all over again with a two-thirds majority, and let us then treat this as a national issue.

My second comment, Mr. President, relates to the change in the structure of the commission. The parent Act envisaged a commission of six persons: two with appropriate legal training and experience, plus four other commissioners from related disciplines, but all with knowledge of the environment. The point is that all six were commissioners in their own right, and with the amendment, as I understand it, we are having two commissioners, both with legal training—one Chairman, one Deputy Chairman—and they will comprise the commission. They will have with them six lay assessors who will not be commissioners. So, this is a fundamental change to the conception of the original Act.

I believe that the environment is not a matter entirely for the legal mind. I believe that the environmental issue must draw on a wider range of disciplines and it seems to me that a commissioner really is a person of professional competence, but more importantly, sound judgment and a broad view on the issues to be addressed. So, while I am not unaware of the argument to make a distinction between the legally trained and those trained in other disciplines, I understand that what one thinks one would be doing is to develop a jurisprudence relating to the environment.

5.40 p.m.

For that purpose the thought is that legally-trained people should be the ones who would assess and develop the case law and the cases which would set precedence. I do agree with the safeguard that whenever the commission meets, the chair should be taken by one of the two legally-trained persons, so that we have the proper treatment of law of evidence and so forth. But it seems to me that the legal issues should be buttressed by what the other disciplines would add.

I have strong reservations as to whether a commission of two legally-trained persons being advised by lay assessors without a vote would, really, address this problem adequately. I am hoping that as the debate proceeds and perhaps as we get into committee to argue this, we could rethink this very fundamental change in policy.

Mr. President, those are my comments on the Bill. I thank you, very much.

Sen. Muhummad Shabazz: Mr. President, really and truly, it is not my intention to be long at all. I would be very brief.

The Environmental Management (Amdt.) (No. 2) Bill, talks about how we are going to bring about this commission. I think that it is very important that we take care of our environment and that we manage it properly and effectively. It is in this light, though, I would like to appeal to the Government. Appeal to the Government in the sense that we may look at environmental matters and appeal; too to the new minister whom I find to be very happy with his “promotion” and who I think would make a very good effort to ensure that the environment is taken care of in the proper way so that he would be very successful in his undertakings as the Minister of the Environment.

My plea, Sir, is really—you know when we talk about environment, we talk about it in a bigger way; in a large way: taking care of the country, making sure that our city looks beautiful and all of that. But my appeal to the Minister is to ask him, Sir, to appeal specifically to his government and to the Ministry of Local Government to try to pass the type of funds that are necessary to ensure that the communities are taken care of.

Sir, when I go jogging on mornings and I look around, I see rubbish heaps all in the areas where I live. There are a number of places that it could be taken care of. I want to ask the Government, please, to take care of the Ministry of Local Government and pass the type of money to that Ministry that could take care of the environment in the communities far better than it is doing.

The rubbish-collection system—we are hearing so many things about it; it seems to be getting worse daily—all over. Maybe the Government would blame it on the corporations and on the local government bodies, but we are saying that because at this point in time the Government is not passing the money and making the thing such a political football and a political tool, that the people in the local government bodies cannot take care of the areas in the way in which they should. As a matter of fact, it is even becoming worse in those corporations that are controlled by the People's National Movement. [*Desk thumping*]

I want to strongly appeal to the Government. Sir. Ask the Government please to look at the garbage collection. Look at what is happening—not only that, we travel over the Lady Young Road. I remember when the Minister of Works and Transport had just come, the amount of work he did on the Lady Young Road, there were people cutting every day. The minute the people did not give him the kind of response he wanted, we are not seeing it happening on the Lady Young Road anymore.

A place like the Lady Young Road which is a showpiece to Trinidad and Tobago, where almost everybody passes—tourists, everybody coming in and out of Port of Spain—that should be a place that we should be looking to beautify. Do you know why I am calling on the Government to beautify it? The Government may say it is the PNM. There were times in this country when there was no money and when there was very little money. Maybe all these projects could not have been done. But in a time when we are seeing \$400 million, \$350 million and \$250 million projects—projects that are worth \$8 million or \$78 million are failing. I think that this Government can use some of that money to pass it on to the Ministry of Local Government to ensure that we get a better environment. [*Desk thumping*] I am appealing to the Minister of the Environment to look at that.

With respect to the roads, I understand that the Government is saying that there is a problem with the fixing of the roads. Let us look at the fixing of the roads. I must be touched, Sir. I remember when the Minister of Works and Transport—I keep referring to him because he was the person who came into the Beetham and Sea Lots area and said: “Let us clean it up.” He cleaned it and on rejection we are no longer seeing him there. The drains are becoming dirty.

In the Beetham area where people are building—all these things we need to look at—their factories along the bus route and they do not care where their water goes, it just goes into the people's place and floods it and we are no longer seeing or hearing anything from the hon. Minister of Works and Transport. I think it is a sad indictment on him.

Not only that, this was the Minister who came to beautify Laventille. He was up on Picton Hill. He painted the tanks and tried to make the environment better. The Government spent millions of dollars on those tanks. Today, because he was rejected, we are not seeing anyone up there beautifying or touching up the area to keep it looking nice. The roads going up to Picton Hill, no one is coming to see about them. I am making this plea so that we will see about the environment in our communities.

Probably the Government has the same problems in many other communities, but I am talking about the one that I am in: the one which the Government made some of the greatest overtures to reach out, to get and make the people feel that they were coming to work with them and we are seeing absolutely nothing happening with the environment in our area. I am appealing to the Government again; give the local government bodies the money and give it to them without these political overtures and try to ensure that the areas are fixed and done better.

There is something that I really want to appeal to this Government—I have tried to speak to some people inside there in a personal way. I would go so far to say that I have even spoken to the Minister of Housing and Settlements. Where I live, Sir, most of the planning areas are in the Laventille and East/West Corridor area. There are some buildings there—I really cannot totally blame this Government. I have seen the four-storey in Hironnelle Street in Morvant, there is obscene language and many different types of writing painted on those buildings that are there for over twenty years. Not only have they been there for over twenty years, but those buildings need to be repainted; all those buildings. Although we came through, there were some hard and tight periods. Maybe there might have been some reason. With this Government spending the type of money that they are spending, to tell us that they cannot paint those buildings is a sad indictment on this Government.

How is it that the Government is talking about beautification and keeping the environment clean and when one goes down to Hironnelle Street into Almond Drive, where there are over 80—100 families in government houses, the Government is saying that it is not getting enough rent money to paint the people's building and the Government is the owner of the buildings?

5.50 p.m.

You are the owners of the nine-storey buildings and you cannot find the money to paint it, yet you are finding money to do all kinds of things. You are finding money to do projects which are costing millions of dollars, that are not

even successful, but things that will keep the people, the ordinary people, the simple people like me going, you are not putting any money into it.

Yet you are talking about keeping the environment going. What environment? What do you want to do, just beautify around the Savannah, beautify Whitehall, and spend all the money there? I am not against that, you know. I am not against the environmentalists. I am not the people who want to maintain and keep the country how it is. I am saying this without objection, if we can go into the Savannah and pave it so quickly and easily, there are a number of other things that we must do to reach and touch the people. [*Desk thumping*]

What I want to say to this Government, I think its main problem is that it is not touching people. We heard it said by their political leader at their last rally that they stopped touching people. This Government that was so people oriented, so loving to the people, no longer seems to be touching people. I am saying that one of the ways that they could touch people is to come back and beautify the environment in the communities. Come into the communities. The best way to come into the communities is to use that system set up by the People's National Movement, and worked by all previous administrations, which are the local government bodies, and give them sufficient money to do it.

Where are the URP gangs, Sir? I do not want to say it. This Minister of Works and Transport started a new kind of culture in the URP. Now you are not seeing gangs, you are seeing money going but you are not seeing people working, no people on the road building up, no people on the road cleaning. What has happened with this URP? The URP which took care of our environment, which built and kept our environment clean and gave us a little pride to walk into our area and feel as though we were people; now nothing is happening. Absolutely nothing!

When you talk to them, when you appeal to them, they say: well, we cannot do it because of some reason. They make it look as though what we are on is a dependency syndrome. The towers in John John, right there, Sir, painted up. During their period nobody painted it. They are just looking at it and saying, "we are going to put people in it to live".

I want to make another point. When we talk about keeping the environment, and I make this point regardless, because I want to be sincere in this. The very people who talk about keeping the environment and who come to this Parliament to pass laws—and I say this to all political parties. When you have to pass the law, when we go out there, we need to look at our political campaigns, how we

deal with them, and deal with it in a more sophisticated way. You go down to central, you see on the big bridges, “Vote UNC”. They will say it is their supporters, or you may see it in Port of Spain, “Vote PNM”; the biggest signs on the street. We need to come out and have our campaigns, probably done differently so that for the environment, we will protect it and do much better. We cannot come here and pass laws, Mr. President, and then we are the first people to break the laws. What the people will say is that the politicians are talking. I know some of these people, mostly on that side, who buy paint to give supporters to go out there and do that. *[Interruption]* On that side. Well, I know about your side. *[Laughter]*

So Mr. President, my appeal, finally, is to ask the Minister, the newly—well, I do not see it as a promotion, but he believes he has been promoted. I like him for that. I like his spirit. It is one of the greatest spirits I have seen in a man for a long time. I must commend him. A man who has been demoted but feels promoted. I feel happy about that, Mr. President. *[Laughter]* Whether you feel you are promoted or demoted—I feel it is demoted—but your spirit will keep you being successful, because that is the spirit. It is like God to Job. Job believed that it was good and it will be good. If you keep that mind, it is going to be good.

It is in this light I am appealing to the Minister, get your people to pass the money to the local government. The Minister of Finance will understand, you will understand. Pass the money, pass it into the communities so that when your Prime Minister and your political leader says that you all are not in touch with the people, he will not be speaking about you. Be in touch with the people. Build up the environment. Build up the communities. Let us all walk, living happily and feeling as equal to anybody else in this country.

Thank you, Mr. President.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I indicated earlier, and with your leave, in accordance with Standing Order 25, I seek your leave and that of the honourable Senators to dispense with notice with respect to a motion which I propose to move and to which I referred earlier in the proceedings.

Mr. President: Are we leaving the Bill suspended?

Sen. The Hon. W. Mark: Mr. President, we have agreed that since we have only one more speaker from the Opposition Bench, that is tomorrow after lunch,

Procedural Motion
[HON. W. MARK]

Tuesday, November 30, 1999

at 1.30 p.m; then we will have the Attorney General intervening, and the Minister of the Environment winding up. So I think we have exhausted our side in terms of speakers and the Opposition has also exhausted—with the exception of one—and the Independents as well. So, we have all agreed that we are going to resume at 1.30 p.m. tomorrow at which time someone on the Opposition Bench would conclude on their side and then we will go to the Attorney General and then Dr. Reeza Mohammed.

Mr. President, I wish to propose that we adjourn the debate at this time on this particular Bill and we continue tomorrow at 1.30 p.m.

Mr. President: Is that agreeable to Senators?

Assent indicated.

Sen. The Hon. W. Mark: Mr. President, in accordance with Standing Order 25, I seek your leave and that of the Senate to dispense with notice with respect to a motion which I propose to move and to which I referred earlier in the proceedings.

Question put and agreed to.

**PARLIAMENTARY REFORM
Joint Select Committee**

The Minister of Public Administration (Sen. The Hon. Wade Mark):
Thank you, Mr. President.

Mr. President, hon. Senators, I beg to move that the Senate agree with the following resolution passed in the House of Representatives on Thursday, November 18, 1999:

Be It Resolved that a Joint Select Committee be established to consider and report on the White Paper on the Reform of the Management Structure of the Parliament; and

Be It Further Resolved that this committee be authorized to consider as part of its records the work of the previous committee appointed to consider this matter.

Question proposed.

Question put and agreed to.

Be It Resolved that the following six members be appointed to serve with the six members appointed by the House of Representatives on the Joint Select Committee established to consider and report on the White Paper on the Reform of the Management Structure of the Parliament of Trinidad and Tobago.

Sen. The Hon. Wade Mark

Sen. Brig. The Hon. Joseph Theodore

Sen. Carol Cuffy Dowlat

Sen. Nafeesa Mohammed

Sen. Prof. John Spence

Sen. Diana Mahabir-Wyatt.

Question put and agreed to.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, before moving to have this honourable Senate adjourned, let me just inform hon. Senators that we shall be continuing our debate on the Environmental Management (Amdt.) (No. 2) Bill. We are going to proceed thereafter to the Maintenance Orders (Facilities for Enforcement) Bill and then we want also to finalize the Sexual Offences (Amdt.) (No. 2) Bill. These are the three matters we want to conclude tomorrow.

I beg to move that this Senate do now adjourn to Wednesday, December 1, 1999 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.02 p.m.