

**SENATE***Wednesday, December 15, 1999*

The Senate met at 1.32 p.m.

**PRAYERS**[MR. VICE-PRESIDENT *in the Chair*]**President Ramdial's Improved Health**

**Mr. Vice-President:** Hon. Senators, I am pleased to advise that Sen. Ganace Ramdial, President of the Senate, although he is not yet well enough to be with us today, has significantly recovered from his set back. I am sure you will welcome the news that he is well on his way to recovery. I thought that I should communicate that to you. [*Desk thumping*]

**PAPER LAID**

Report of Cabinet Appointed Committee on the Unification of the Teaching Service and its Delinking from the Public Service. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]

**ARRANGEMENT OF BUSINESS**

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. Vice-President, in keeping with the spirit of the season, we have decided to try to complete our business by 4.30 p.m. In this regard, we want to go with the Tourism and Development Bill first. We will not deal with the Dangerous Dogs Bill today, but we will leave it for the next session when we start after the adjournment, in January. We will also deal with three simple Bills subsequent to the Tourism Development Bill: the Criminal Procedure Bill, the Distribution of Estates of Deceased Persons Bill and an Act to amend the Limitation of Certain Actions Act, 1997. Those are small matters and we do not anticipate much debate, so by 4.30 p.m. we should be out of here.

*Agreed to.***TOURISM DEVELOPMENT (NO. 2) BILL**

[FOURTH DAY]

*The committee of the whole Senate resumed its deliberations on the Bill.*  
[November 30, 1999]

[Chairman: Sen. Philip Hamel-Smith]

**Mr. Chairman:** Just to make sure that we are reading from the same page, because there are many different drafts being referred to. There is one on

*Tourism Development (No.2) Bill*  
[MR. CHAIRMAN]

*Wednesday, December 15, 1999*

long paper headed “The Tourism Development (No. 2) Bill, 1999”, I think that is the basic document that we have looked at. That is the one that is being carried into committee—that we have partially considered.

**Sen. Prof. Spence:** Mr. Chairman, does that have on the cover, “Notes”?

**Mr. Chairman:** Explanatory Notes? Yes.

**Sen. Prof. Spence:** All right.

**Mr. Chairman:** We have also seen circulated—I do not know how widely circulated—I think we have some amendments circulated by Sen. Prof. Spence.

**Sen. Prof. Spence:** When was it circulated?

**Mr. Chairman:** I think it was circulated yesterday.

**Sen. Dr. Dhanny:** Mr. Chairman, I have before me a second amended draft, is that the one we are looking at?

**Mr. Chairman:** No, we are looking at the original Bill first. The basic document is the document headed “The Tourism Development (No. 2) Bill, 1999”. Then we have a one and one-half page list of amendments circulated by Sen. Prof. John Spence with five different amendments. We also have circulated some supplemental amendments by the hon. Minister of Tourism that are on five pages, which concludes with an amended Schedule 9. Does everyone have those two documents?

**1.40 p.m.**

**Sen. Montano:** Mr. Vice-President, as I recall, the Bill that you were referring to was the Bill that we were debating. Then there was an amended draft after we had that private meeting. Now we have a second amended draft. It would seem to me that we should work with that second amended draft or else we are going to get very confused as to what—

**Mr. Chairman:** What I am suggesting is that the basic document is this document. What we have had the benefit of is a consolidation coming forward. Without being in a position to say that everything in here, I have not myself personally vetted it, but I assume in the consolidation that is headed up “second amended draft”, is basically the original document with the amendments that have been consolidated that now all form part of what is called the second amended draft. I assume that Sen. Prof. Spence’s amendments are not captured in this

document, nor is the supplemental list of amendments from the Minister captured in that document.

**Sen. Prof. Spence:** A point of order, Mr. Chairman. We can only work with the original Bill before us; we cannot work with these amended Bills.

**Mr. Chairman:** Yes. We are working with the original Bill. I am trying to explain the existence of all these documents.

**Mr. Maharaj:** Mr. Chairman, I wondered whether, in light of what has happened, we should start from the top coming down, and go through each clause. I was wondering if that is not the better way to do it.

**Sen. Prof. Spence:** Mr. Chairman, we have a problem procedurally. We had started the committee stage. We approved most of the clauses. We deferred a few. So, the first thing I think we have to do is look at the deferred clauses. I think the hon. Minister is going to propose, according to his list, some clauses that we have already decided on. In each case, the Chairman is going to have to get the Senate's agreement to reconsider clauses that we have already agreed on. So, the only way to do it, procedurally, is to take the deferred items and then take any clauses which we want to reconsider and get approval to reconsider them.

**Mr. Maharaj:** [*Inaudible*]—in light of what Sen. Prof. Spence has said, but we can go through very quickly. People would have forgotten as to what was decided and what was not decided. I was wondering whether we could, with the leave of the Senate, go through each clause on a very quick basis and then we will be able to identify.

**Sen. Daly:** We did all that work already.

**Mr. Maharaj:** In any event, even if it is at the committee stage and people wanted to move that it come back, the Senate could do that. As a matter for order, should we not go that way and put ourselves in a perspective with respect to everything that has happened before.

**Mr. Chairman:** What I can say is that I have the benefit of *Hansard*, and Sen. Prof. Spence is correct. What we have, in fact, done is gone through significant parts of the Bill and deferred certain clauses. What we are finding is that some of the suggested amendments, in fact, deal with certain parts that we have already revisited. So, I am hearing here a suggestion that in fact, what we do is take a review of the entire Bill, not necessarily of every clause, but we go over the entire Bill.

*[Sen. Daly and Sen. Dr. St. Cyr shaking heads in disagreement]*

**Sen. Montano:** Mr. Chairman, in order to do that, we would have to have in our hands all the amendments that have been made. We would have to get them all back and make sure that we have all the amendments, or else we will have to go through the whole thing all over again.

**Mr. Chairman:** I assume we have all the amendments.

**Sen. Daly:** No. We do not. We do not have all the amendments.

**Mr. Chairman:** Well, the records certainly have them.

**Sen. Daly:** How do we have access?

**Mr. Chairman:** I have taken the liberty to get the *Hansard*.

**Sen. Daly:** We do not have that document. Surely, the correct thing to do is take the deferred clauses and, insofar as there are really consequential clauses, we are going to take those with the leave of the Senate. To do the whole Bill over again...

**Mr. Chairman:** What we have here, just so we understand, we had got as far as clause 38 and the deferred clauses were 6, 7, 7A—a new clause—8, 10, 11, 12 and 13. We were just reverting to the proposed amendment to clause 6 when we broke. What we can do, which is what I am hearing as an alternative suggestion, is, in fact, to first visit those clauses and then, if there are any amendments that relate to any part of the, then, fully considered Bill, we can, with leave, go back to those various parts which would include, I think, both sets of amendments that are in front of me. We have Sen. Prof. Spence's amendments, some of which deal with the clauses that have been deferred, and one or two that do not deal with those clauses that are deferred. We also have the Minister's amendments, similarly, some of them dealing with clauses that have already been dealt with and some of them being dealt with are the deferred clauses.

So I am looking for consensus on the approach. The end result is that we end up with the same final product. It is a question of how do we get there.

**Sen. Prof. Spence:** I wanted to ask, Mr. Chairman, if you could explain to the Attorney General what has happened to this date. We had a meeting. We went into committee. We went through the whole Bill, deferred some clauses. Then we had an informal meeting and came to certain agreements, which did not mean too much change. But then we had a second informal meeting, which introduced a whole series of new proposals, which we have in the Minister's second supplemental. So, that is really what has caused the difficulty, that second meeting.

Just to throw further confusion into the pot, I do not agree with some of the conclusions that we were supposed to have reached at the second meeting. In other words the second meeting had no merit. Some of the things here, I do not think we agreed to at the meeting. So it is a very confusing situation.

**Mr. Chairman:** I think we need to take notice, maybe, that discussions have taken place. The meetings, as far as I know, are not official meetings and therefore, we do not want to be bound here by what took place at the meetings. We also have the strange situation where some of the amendments that we have already considered, it appears that we have recommendations in front of us to amend those amendments. I have no difficulty with either approach. Either do a full overview and spend more time on the clauses that we have circulated amendments for, or deal with those first and then look to see whether there is anything else we need to capture.

**Sen. Daly:** It is really trespassing on the good nature of those who gave up their time to make us go through this whole Bill again. I strongly suggest...

**Mr. Maharaj:** I know what Sen. Daly is going to say. The supplemental list of amendments which the Minister has, we are going to withdraw that and take into consideration what has been discussed. *[Interruption]* This supplemental list which was discussed with the committee.

**Mr. Chairman:** Let me try to arrive at some consensus. Shall we, in fact, visit these clauses that we had deferred first? *[Assent indicated]* Then, with leave, if the committee so agrees, we will then make available to both sides the entire Bill for any additional consideration if they would like to. In the case of Sen. Prof. Spence, we had some amendments here that have already gone by and are not part of the deferred grouping.

**Sen. Prof. Spence:** I do not have any. The only one is clause 38, which I realize we have already agreed to.

**Mr. Chairman:** But clause 22 is also there.

**Sen. Prof. Spence:** Which one?

**Mr. Chairman:** Clause 22.

**Sen. Prof. Spence:** That is a new clause, but we have not taken new clauses.

**Mr. Chairman:** Well, if we have passed clauses 21 and 23, I presume we have dealt with clause 22.

**Sen. Prof. Spence:** No, this is a new clause 22. A new clause and we have not taken new clauses.

**Mr. Chairman:** Is this not a subclause?

**Sen. Prof. Spence:** No, this is a new clause, and we have not yet taken new clauses.

**Mr. Chairman:** It says a new subclause. I was assuming it was part of clause 22.

**Sen. Prof. Spence:** No, I meant it to be a new clause. I apologize.

**Mr. Chairman:** Could I get agreement that we would start by looking at the clauses that were deferred on the previous occasion? From *Hansard*, I am suggesting that those be clauses 6, 7, 8, 10, 11, 12 and 13.

**Sen. Prof. Ramchand:** Mr. Chairman, just to clear up some uncertainty in my mind. Can you tell me which of the Bills—are we using the second amended draft as the base document?

**Mr. Chairman:** We are using the original document, bearing in mind that it has been amended. We have the benefit of what amendments have taken place that are captured in other documents. In fact, it seems that I am the only one who has the benefit of a full list of amendments, which I have done. But the basic document that is before us is the original Bill on long paper as I previously indicated.

**Sen. Prof. Ramchand:** So, what is the status of the thing called “amended draft” and the one called “second amended draft”?

**Mr. Chairman:** The one in your left hand captures some of the amendments that we made to the one in your right hand. The one that is in either hand captures further amendments.

**Mr. Maharaj:** Mr. Chairman, there are some amendments dated December 13, 1999 which I would ask to be circulated, so that, as we go through clauses 6, 7, 8, et cetera, those are the amendments we can probably look at.

**Mr. Chairman:** Does everybody also have the amendments that were circulated by Sen. Prof. Spence? [*Assent indicated*] Those are not dated, but they are a page and a half, front and back. Anybody else does not have a copy?

**Sen. Dr. Dhanny:** Mr. Chairman, I have not had the benefit of those amendments.

**Sen. Prof. Spence:** There is one marked supplemental with a number of amendments. Is that withdrawn? That is three pages.

**Dr. Nanam:** Yes, Mr. Chairman. We are withdrawing that one. We have circulated one dated December 13, 1999.

**Mr. Chairman:** The one dated December 13, 1999 is copied on one side and it constitutes 11 letter-sized pages. It is also headed "Supplemental" but it has a date on it. It is copied single.

**1.55 p.m.**

**Sen. Prof. Spence:** Mr. Chairman, this must be a record.

*Clause 6 reintroduced.*

**Mr. Chairman:** We have one circulated amendment to this clause which is the document that was just circulated. [*Interruption*] The amendment reads as follows:

- "A. Delete subclause (1) and substitute therefor the following new subclause:
  - '(1) Where a tourism project or any part thereof, which enjoyed benefits under this Act 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 shall be paid by the vendor to the Board at the appropriate rate as set out in Schedule 8.'
- B. Insert after subclause (1) the following new subclause (2):
  - '(2) This section shall not apply to the sale or lease of a villa or condominium or the site for a villa or condominium which forms part of an IRD which is an approved tourism project'.
- C. Clause 6(2) to be renumbered 6(3).
- D. Insert after subclause (3) as renumbered, the following new subclause:

[MR. CHAIRMAN]

‘(4) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one million, five hundred thousand dollars and to imprisonment for two years’.

**Sen. Prof. Spence:** Mr. Chairman, can I ask a question, because this came up previously? Does such a sale still attract the stamp duty?

**Mr. Chairman:** In the absence of a provision to exclude it, it would mean yes.

**Sen. Daly:** Why then do we at the bottom of Schedule 8 have all these bullet points, stamp duty will not have to be paid? How can we say anything about stamp duty in a bullet point? What is the significance of these three bullet points? They should be removed. You cannot make after dinner comments about stamp duty in the legislation. They are just after dinner comments.

I am suggesting if we are going to be referring to Schedule 8 in the Minister’s amended clause 6, all these bullet points by the foreign consultants that “The Tourism Transfer Tax is not meant to be a revenue raising device but rather to serve the following...” have no place in the statute. It should be deleted, otherwise we will then start having arguments about what is the meaning of No. 3 with stamp duty. I am sure the Attorney General is as stunned as I am to see these bullet points: these after dinner comments.

**Dr. Nanan:** Mr. Chairman, it is for clarification.

**Sen. Daly:** Clarification of what? Are you going to be asking a judge who has to construe the statute or a commissioner of Inland Revenue to clarify the statute by someone’s comments? That is unheard of!

**Sen. Prof. Spence:** But it is worse than that, Mr. Chairman. It contradicts what the Minister has just told me. He just told me that stamp duty still applies unless it is specifically changed in the law. We are not changing it in the law, how could we then say under No.3 in Schedule 8 that stamp duty will not have to be paid during the period of the tax holiday.

**Sen. Daly:** Whether it is contradictory or not, it has no value whatsoever. You cannot put bullet points or somebody’s private thoughts in a statute. It is just not acceptable; that is not how laws are passed, because I could put down the words “I think can clarify.” Then what is the Commissioner of Inland Revenue going to do?

**Mr. Chairman:** Minister of Finance, do you have anything to say about that?

**Sen. Kuei Tung:** I agree with Sen. Daly. [*Crosstalk*]



**Sen. Prof. Spence:** Mr. Chairman, I really hate to say so, but that is why we should have had a select committee. Many of us urged for a select committee. We had to have a select committee on this Bill.

**Sen. Daly:** I am maintaining my fundamental position that somebody's thoughts on what they think is clarification have no place in a statute passed by this Parliament. I have never seen this!

**Mr. Maharaj:** Mr. Chairman, just let me understand what Sen. Daly is objecting to, Nos. 1, 2, and 3, at the bottom of Schedule 8 and the introductory words. I am told that it is not unusual for this to be there. For example, there are similar schedule, introductory words and points in the stamp duty and other financial regulations.

**Sen. Daly:** They do not have these words "not meant to be a revenue raising device."

**Mr. Maharaj:** I am told so, I have not seen it myself.

**Sen. Daly:** Well, you would have to show me.

**Mr. Maharaj:** I would have no problem recommending that it be deleted.

*Bullets deleted.*

**Sen. Daly:** Thank you.

**Mr. Chairman:** The footnote to Schedule 8 referenced in clause 6 which we are considering is being deleted.

**Sen. Daly:** That is everything starting from the double asterisk?

**Mr. Chairman:** Yes; in fact the asterisk up above would also be removed.

**Sen. Daly:** It is now more like a statute and less like a letterhead. [Interruption] No, we are not finished. We are a long way from being finished. May I say what is my next problem? How are we to interpret the words "a tourism project transfer tax based on the market value at the appropriate rate"? If what we are saying is that the tax would be charged as a percentage of the market value of the tourism project, according to the percentages in Schedule 8, does this express that? What is the meaning of the words "based on"? That is my problem.

I do not have a fundamental problem with a percentage of market value, what I am concerned about is that the words "based on" only add confusion. Surely the draftspeople could simply say, "a tourism project tax equivalent to a percentage of

*Tourism Development (No.2) Bill*  
[SEN. DALY]

Wednesday, December 15, 1999

the market value shown in the Schedule” or whatever? I am not a draft person. The expression “based on” is troubling me. I would have thought it would have said, “equivalent to’ or something like that.

**Mr. Chairman:** What particular clause are you referring to?

**Sen. Daly:** Clause 6 on page ii. Should it not say:

“a sum equivalent to a percentage of the market value of the tourism project or any part thereof should be paid by the vendor to the Board at the appropriate rate set out in Schedule 8”?

I do not think that you can arrive at a sum using the word “based”.

**Mr. Chairman:** Could I get those words. The suggestion is:

“a tourism project transfer tax equivalent to the appropriate percentage of the market value of the tourism project or any part thereof should be paid by the vendor to the Board at the rates set out in Schedule 8.”

**Sen. Daly:** I would like the draftspeople to say whether I was right.

**Mr. Maharaj:** What it means is calculated.

**Sen. Daly:** Well the word “calculated” is nice, but the word “based” does not help.

**Mr. Maharaj:** We might think that they are going to some nightclub.  
[*Laughter*]

**Mr. Chairman:** Let us try to make some progress here. The suggestion is:

“a tourism project transfer tax calculated on the market value of the tourism project or any part thereof shall be paid by the vendor to the Board at the appropriate rate as set out in Schedule 8.”

**Sen. Daly:** Fantastic!

**Mr. Chairman:** Any other comments on any other part of clause 6? You have A, B, C. and D.

**Mr. Maharaj:** I think Sen. Prof. Spence is happy because it honours the commitment made. [*Laughter*]

**Sen. Prof. Spence:** [*Inaudible*]

**Sen. Daly:** What is the meaning of the words “one to seven-year tax holiday in Schedule 8?”

**Mr. Chairman:** There is a tax holiday provided for in the Bill, I think under clause 3.

**Sen. Daly:** This is a graduated scale?

**Mr. Chairman:** Yes. It appears in subclause (3)(a) that the tax exemption should be for a period not exceeding seven years.

**Sen. Daly:** I understand, thank you.

**Mr. Chairman:** Are there any comments on any aspects of clause 6, either A, B, C or D? There is a new clause D that I draw to your attention. Clause 6(4) would be the new clause, “a person who contravenes” *et cetera*. Could I put the question?

*Question put and agreed to.*

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

*Clause 7 reintroduced.*

**Mr. Chairman:** We have two amendments: one circulated by Sen. Prof. Spence and another by the Minister. Sen. Prof. Spence’s amendment reads as follows:

“In paragraph (a) substitute the word ‘Ministry’ for the word ‘Agency’.

Substitute the word ‘Ministry’ for the word ‘Corporation’ in paragraphs (b) and (c) and wherever the word ‘Corporation’ appears thereafter.”

The Minister’s amendment is as follows:

- A. Delete the words ‘Tourism projects seeking to access benefits under this Act;’ and substitute the words ‘Tourism projects approved for benefits under this Act.’
- B. Delete the word ‘Agency’ in paragraph (a) and substitute the word ‘Corporation’;
- C. Delete the words ‘the Assembly’ in paragraph (b) and substitute the word ‘Tobago’;
- D. Insert after the word ‘Corporation’ in paragraph (c) the words ‘or the Assembly’;
- E. Delete paragraph (e).

*Tourism Development (No.2) Bill*  
[MR. CHAIRMAN]

Wednesday, December 15, 1999

F. Renumber paragraph (f) as paragraph (e)

Insert after clause 7 the following new clause:

‘Non conferral  
of benefits

7A No benefits under this Act shall be  
conferred on:

- (a) the purchaser or lessee of a villa or  
condominium or the site for a villa or  
condominium in an IRD which is an  
approved tourism project; or
- (b) an owner or operator who has not  
obtained an Order in accordance  
with this Act.’”

**Sen. Prof. Spence:** I want to say why I have made this proposal, Mr. Chairman. The fact is what we have done with this Bill is to set up two parallel bureaucracies namely, Tourism Industrial Development Corporation (TIDCO) and the Ministry. As I pointed out earlier on, for the Ministry to present a document for the Minister to sign, it is necessary for them to first vet the whole process.

Indeed, when we were having informal discussions, a member of the Ministry made the point that they had in the past had to correct some facts that were put up by TIDCO, and indeed, that caused them to alter their position on a particular project proposal. I think that what we have done here is to set up two bureaucracies and we are going to delay the process. Of course, for Tobago projects we have the Tobago House of Assembly as well, so in some cases we have three sets of bureaucracies.

I think that if anyone looked at yesterday’s newspaper or at television on the Morning Edition programme this morning, one can hardly have confidence in the Tourism Industrial Development Corporation, having chosen a particular agency to have the Millennium Expo, not to speak of World Beat. So, certainly, my confidence in TIDCO is not very high at the moment, even though it may affect my achievement rating—[*Interruption*]

**Sen. Daly:** They did not even get a posse to go. [*Laughter*]

**Sen. Prof. Spence:**—my achievement rating notwithstanding.

That does not mean that TIDCO does not need to have a role, they can do exactly what they are doing now, except that they do not receive the documents for vetting. If the Minister wants advice from them he can refer it to Tourism Industrial Development Corporation and they could give him their advice. They can do all that they are doing; they can recruit the people, advertise, and get the investors and so forth.

**Dr. Nanani:** Mr. Chairman, I have listened to what the hon. Sen. Prof. Spence has said, but it is a policy decision and we are going with the amendments to clause 7 circulated by the Government.

**Mr. Maharaj:** In any event, if I may assist, what really happens is that if you put the Minister, it would still have to go to the Tourism Industrial Development Corporation because they would have to do all the ground work.

**Sen. Prof. Spence:** Not if you have an efficient ministry. When this Bill was originally drafted there was no Ministry of Tourism; it was an adjunct to another Ministry. I believe that the situation has now changed. You have given prominence to tourism and, perhaps, there has not been a policy review since that decision was made. But I understand that it is a policy decision. I feel so strongly about it because I think that it is going to come back to haunt us. I would like my proposal to be put, and then it can be rejected by the majority.

### **2.10 p.m.**

**Sen. Mark:** May I clarify one point for Sen. Prof. Spence. The Ministry of Tourism, even though it was part, it was linked to the Ministry of Trade and Industry and Consumer Affairs, it was an independent ministry in the sense that the Minister of Trade and Industry was also the Minister of Tourism and there were two Permanent Secretaries in that ministry. So to say for instance, it was an adjunct in the sense that it was like the Ministry of Trade, Industry and Consumer Affairs, it was always an independent arrangement.

**Sen. Prof. Spence:** Thank you, Minister, but if you could give us the staffing of that ministry compared to other ministries, one would see the point that I am making. The difficulty is even greater because of that circumstance because this ministry with a very small staff would have to vet things produced by TIDCO with its large staff to put to the Minister. Eventually you are going to have to put more staff in that ministry. I have absolutely no doubt about it.

**Mr. Chairman:** We are considering the amendments which were circulated by Sen. Prof. Spence.

*Question proposed*, That the amendments to clause 7 be adopted.

*The Senate divided*: Ayes 6                      Noes 21      Abstention 1

NOES

Mark, Hon. W.

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Phillips Dr. The Hon. D.

Gangar, Hon. F.

Gillette, Hon. L.

Tota-Maharaj, Hon. V.

Cuffy Dowlat, Ms. C.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

Moore, N.

Williams, Mrs. A.

Cowie, D.

Dhanny, Dr. G.

Mohammed, Ms. N.

Montano, D.

Alfred, Miss C.

Shabazz, M.

Belmontes, Miss C.

Marshall, P.

AYES

Spence, Prof. J.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

Sen. D. Mahabir-Wyatt abstained.

*Question on amendment negatived.*

**Mr. Chairman:** We now have the amendments circulated by the Minister which are detailed in 7(a), (b), (c), (d), (e) and (f). These are not dissimilar to the ones you have previously seen.

**Sen. Daly:** Mr. Chairman, do you get approved for benefits before you register with the agency or the Assembly? Do I understand that amendment to mean you get approval for benefits and only then you register? That seems to be the burden of the amendment. I thought you had to register first and then go for approval. I do not understand that.

**Mr. Chairman:** It seems like you have to register first. My reading of it—and we are waiting on the experts here—is that the tourism projects approved for benefits under the Act must be registered. In other words, you are approved for benefits, but before you get the benefits, you must be registered under the Act.

**Sen. Daly:** That is what I thought. I thought the original clause 7 was more right than the amended clause 7; apart from the jargon words “accessing benefits”, in the original Bill.

**Mr. Chairman:** Apparently the projects were approved in lieu of tourism projects, approved for benefits, and then you register.

**Sen. Daly:** Then you register what, the project?

**Mr. Chairman:** Yes. You do not access the benefits until you register. Let us wait on the technocrats to tell us.

**Mr. Maharaj:** The philosophy behind this is that a project does not exist until it is approved and, therefore, you approve the projects first and then register. That is what I am being told. That is the rationale for doing it.

**Sen. Mahabir-Wyatt:** Mr. Chairman, who approves them before they are registered?

**Mr. Maharaj:** The Minister.

**Sen. Mahabir-Wyatt:** Is this the two-tiered, or three-tiered system where you have to go to Tobago about which Sen. Prof. Spence was talking?

**Mr. Maharaj:** It is ultimately approved by the Minister.

**Sen. Daly:** [*Inaudible*]

**Mr. Maharaj:** Yes, it must be baptized and then you register.

**Sen. Daly:** My other question is who is going to approve the benefits?

**Sen. Montano:** Mr. Chairman, what Sen. Daly is saying is right because if one looks at subclauses (d) and (f), one would see that quite obviously it is intended that before the benefits are granted those things should be in place. What it is now suggesting is that these things must continue to be in place after the fact. It does not really fit in with other clauses drafted. Obviously, it would make sense that in order to qualify for the benefits, you must have these things, and not after the fact. After everything is approved, after the project is approved, you must, as far as possible engage the human resources and if you do not, what happens? If you do not show the linkage to the agricultural sectors after your project is approved, what happens?

**Mr. Maharaj:** In order to have a consensus, if we leave it how it was before, would you accept that?

*Assent indicated.*

**Mr. Chairman:** The amendment to clause 7(a) is withdrawn. Are there any comments on clause 7(b), (c), (d) (e) and (f)?

**Dr. Nanan:** Mr. Chairman, I beg to move that clause 7(b), (c), (d), (e), and (f) be amended as follows:

- “B. Delete the word “Agency” in paragraph (a) and substitute the word “Corporation”;
- C. Delete the words “the Assembly” in paragraph (b) and substitute the word “Tobago”;
- D. Insert after the word “Corporation” in paragraph (c) the words “or the Assembly”;



- E. Delete paragraph (e).
- F. Renumber paragraph (f) as paragraph (e)."

**Sen. Dr. St. Cyr:** I take it, Sir, that in clause 7(b) the word "Assembly" has been changed to "Tobago"?

**Mr. Chairman:** You are correct. That is amendment 7(C) .

**Sen. Mahabir-Wyatt:** Could you read it, Mr. Chairman?

**Mr. Chairman:** It reads:

"(b) are subject to annual inspection by the Corporation in respect of matters concerning Trinidad, and the Assembly in matters concerning Tobago."

The two words deleted are "the Assembly" and it is substituted by the word "Tobago"

**Sen. Mahabir-Wyatt:** You have just said it now reads:

"and the Assembly in matters concerning Tobago"?

**Mr. Chairman:** That is right. It is the second reference to "the Assembly" to be more specific. Delete the second reference to the words "the Assembly".

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 8 reintroduced.*

**Mr. Chairman:** There are amendments circulated by the Minister.

**Dr. Nanan:** Mr. Chairman, I beg to move that clause 8 be amended as circulated:

Delete clause 8 and substitute therefor the following new clause:

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

**Sen. Prof. Spence:** Mr. Chairman, I take it we are not taking the Schedule at this stage, we will take it afterwards.

**Mr. Chairman:** We will take Schedule 9 afterwards. What has happened is that the definition of the word “tourism project” is changed and we now have the details captured here.

**Sen. Prof. Spence:** It seems to me it does not capture all the details. If you look at clause 7, some of the provisions are no longer stated. Does it mean they are no longer required as an investment criteria? Under clause 7(f), the one I am interested in mostly, it says:

“(f) must show linkage to the agricultural, construction and furniture industries...”

Should not all those be listed as criteria to investment?

**Mr. Chairman:** Clause 7 still exists, it has not been deleted.

**Sen. Prof. Spence:** Then you must have consistency. You have said that under clause 7A, to enjoy benefits you should have these criteria but under clause 7 you are saying to enjoy the benefits you should have different criteria. Some of the criteria in clause 7 are missing in clause 8. I would like to see repeated in clause 8(B) and new clause 8(E) at least, clause 7 that we have just approved.

**Mr. Chairman:** Maybe we should say “in addition”. “In order to obtain benefits under this Part, tourism projects must in addition...”

**Sen. Prof. Spence:** To those set out in clause 7. I do not mind doing it that way.

**Mr. Chairman:** What has happened here is that the definition—if we go to the original Bill—this wording was captured in the definition of “tourism project” which we have deleted in the first—*[Interruption]*

**Mr. Maharaj:** I understand that there was an objection to it being there and we have just put it here. What does Sen. Prof. Spence want?

**Sen. Prof. Spence:** I think the suggestion of the Chairman is quite satisfactory, “in addition to those set out in clause 7.”

**Mr. Maharaj:** In the spirit of the season.

**Sen. Prof. Spence:** In order to make sure agriculture has a place.

**Mr. Maharaj:** Sen. Prof. Spence, I want you to support me with the other clause.

**Mr. Chairman:** We have a suggested amendment to the amendment and it will read as follows:

“In order to obtain benefits under this Part, tourism projects must meet in addition to the criteria set out in clause 7...”

**Sen. Prof. Spence:** “In order to...the criteria set out in clause 7 shall:”.

**Mr. Chairman:** “In order to...the criteria set out shall:” and then there is a, b and c. Is that it, Mr. Minister?

“In order to obtain benefits under this Part, a tourism project in addition...”

**Sen. Montano:** Mr. Chairman, “In addition to the criteria set out in section 7, in order to obtain the benefits...” It is best we put “shall.” It reads better that way.

**Mr. Chairman:** Do you have any problem with that? Let us try again.

“In addition to the criteria set out in section 7, in order to obtain benefits under this Part, a tourism project shall—” and then there is small (a) (b) and (c). Everybody got that?

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 9 recommitted.*

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

**Mr. Chairman:** There is a circulated amendment (a) (b) and (c). The words “ancillary and” to be deleted in small (b).

**Sen. Dr. St. Cyr:** Did we not say that we were not going to re-open clauses already approved until we come to—

**Mr. Chairman:** Was this clause approved?

**Hon. Senator:** Yes.

**Sen. Dr. St. Cyr:** This was approved Sir.

**Mr. Chairman:** Well, we move to clause 10—sorry.

*Clause 10 reintroduced.*

**Dr. Nanan:** I beg to move the following amendments:

- “A. In subclause (1) delete the words ‘involving the size of investment’ occurring in line one and substitute therefor the words ‘having the minimum capital expenditure’.
- B. In subclause (1) delete the words ‘the Chief Executive Officer of’ and the words ‘(hereinafter referred to as ‘the Chief Executive Officer’)
- C. Delete subclause (2) and substitute therefor the following new subclause:  
  
 ‘(2)Upon receipt of an application under subsection (1) the Corporation may require the applicant to submit such information and plans as required, and the Corporation may require that satisfactory evidence be submitted to it with respect to any matter relevant to the application, proposed project, ownership of the tourism project or proposed tourism project or lands to be used in connection therewith, or to the estimated expenditure on the project, or the source of the funds thereof.’
- D. In subclause (3) delete the words ‘Chief Executive Officer’ and substitute therefor the word ‘Corporation’.
- E. In subclause (3) insert after the word ‘Minister’ the words ‘no later than thirty days after receipt of the application.’”

**Mr. Chairman:** There is a circulated amendment for clause 10: A, B, C, D and E on the next page. Could we take it one at a time?

- A. The words “involving the size of investment” removed and replaced by “having the minimum capital expenditure”

Any comments there?

- B. Delete the words “Chief Executive Officer of” and the reference.

I think this was done on the previous time around. No—?

**Mr. Maharaj:** I think this reflects the agreement.

**Mr. Chairman:** I will continue.

- C. Subclause 2 is deleted and replaced with a new subclause 2.
- D. Delete the words “Chief Executive Officer” and replace it by “Corporation”.
- E. After the word “Minister” include the words “no later than thirty days after receipt of the application”.

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11 reintroduced.*

**Mr. Chairman:** Again, we have two circulated amendments, one by Prof. John Spence and the other by the Minister, maybe we could take it in that order.

**Sen. Prof. Spence:** Mr. Chairman, may I say something on this?

**Mr. Chairman:** Sure.

**Sen. Prof. Spence:** If you look at clause 11(3) as it now exists—sorry. If you look at clause 13(1) as it now exists, you would see that it says, “and has received the support of the Tobago House of Assembly”, for projects in Tobago. Now, clearly, if it is going to receive “the support of” we will have to change clause 11(2) to “approval”. Now that would make it consistent. I think I should say more than that because there is now a proposal at this stage for 13(1) as well.

Mr. Chairman, I would just like to summarize again, the arguments that I have used in this regard. I think it is extremely critical that communities be allowed a say in whatever developments are taking place that would markedly affect their community. For example, this summer I was in Toco and I went into the Chinese shop there, and the chap said to me, “I have lived here all my life. They are now going to put a port down here. Why are the people in Toco not consulted? We want to say whether we want a port here, and this massive development is going to change the environment of our village.” That is just one example.

There is absolutely no doubt, that if we take a certain path of development in Tobago we will markedly affect not only the physical environment but the social environment as well. Now, I think if we are going to do that, the people who have to live with those changes are the ones who should say whether they want those changes or not. That is why from my point of view, it is critical that the people in Tobago approve of the projects that may take place. Now this does not give them the power to initiate the projects, but when they are submitted through TIDCO and sent to them, they will approve or otherwise, so they have, if you like, power of veto. I think that is extremely important if their well being is to be preserved.

My impression is—with all the hoo-ha that has gone on over this particular amendment—that is not what many people want. They want large-scale development in Tobago; large chain hotels; massive immigration into the country of people from other parts of the world and we could see Tobago, as we know it, completely changed. Personally, I do not want to see that but if it has to change, I think the people in Tobago are the ones to say.

**Mr. Chairman:** Okay, so we have comments on Sen. Prof. Spence's amendment. Any other comments?

**Sen. Marshall:** Mr. Chairman, I have learnt much from my very admired leader of the Independent Bench—if there is such a position—and I do support his basic principles, in terms of his position, for example, when we were talking about parliamentary committees. I would like to put forward my basis of why I disagree with Sen. Prof. Spence.

I have done a lot of research on this whole issue of public sector management and governance. I have seen how various governments are basically saying that governments and ministries must set policy and agencies must focus on their specific outputs to execute those policies. I see this Bill as being an instance where we are talking about the execution of a policy. I really feel that we would be making a step backwards, if we continue from the perspective of transparency and accountability. Once we set a policy and make it fairly transparent, in terms of what are the criteria that a potential investor must follow, we will then have a situation of approvals having to go back to a specific assembly or body.

Mr. Chairman, every case for transparency, for a reduction of delays and the promotion of investment, has always been a policy statement at Government level and these are the criteria to be met. Agencies can now take decisions from start to

finish on whether in a specific instance, that criteria is being met, and I thought that this Bill is about such an instance.

**2.35 p.m.**

I am not disagreeing that the Tobago House of Assembly or other bodies must not take part in formulating policy, but the policy has already been set. This is an example of the execution of those policies. Although we may have criticized TIDCO, let that be the subject of another issue. Maybe TIDCO needs to be investigated, reorganized, whatever, but it should not be the basis of a principle.

**Sen. Daly:** Mr. Chairman, may I be allowed to say what the fallacy is in Sen. Marshall's argument? His argument would be unanswerable if the policy had already determined what were the sensitive and ecologically protected areas of the country. This matter has given me much anxiety but I always approach things very simply. If I lived in Tobago I would not countenance any project at Pigeon Point without the approval of my representatives nor, for that matter, would I countenance any project at Latours' Lagoon without the approval of my representative.

If, of course, we had already had orders made under the environmental legislation protecting those areas, then there would be no necessity for the approval of my representative. Unfortunately, we are now caught in a situation where, in theory, we are having an implementation measure but the policy has not considered what I believe are fundamental issues to the people of any part of Trinidad and Tobago. Indeed, I would have much to say through my local government representatives in Mayaro when the time comes for them to implement this Bill in Mayaro.

The point is, we have not yet determined what are the protected areas in Trinidad and Tobago and, therefore, in the course of this implementation some environmentally insensitive organization could take a decision about Pigeon Point or Latours' Lagoon or, for that matter, the 12 miles of beach in Mayaro, purely as an implementation matter. Ultimately that is how I have resolved my difficulty. I cannot see this as implementation if those wider issues have not been developed. Thank you, Mr. Chairman.

**Sen. Dr. Mc Kenzie:** Mr. Chairman, I would like to get an answer to one question relating to this amendment. If the Tobago House of Assembly says—comments, okay we are going with comments—the comments they have sent are

*Tourism Development (No.2) Bill*  
[SEN. DR. MC KENZIE]

Wednesday, December 15, 1999

totally against the implementation of a project, what happens? That is all I want to know. If you can answer me with regard to the Tobago House of Assembly's comments in this regard, such as—I am not talking about approval at all, I am talking about comments—“My comments are, because of this, that, that, that, that, I do not recommend that this project be built in Tobago”, what is the alternative?

**Sen. Marshall:** Mr. Chairman, I was going to reply to Sen. Daly in this context. If we do not let the Government agencies be independent like environmental management, what about this situation? The Environmental Management Agency says, “This is not suitable for development,” but if we want to take the example where the Tobago House of Assembly says, “We think it is suitable”, which one would you rule on?

**Sen. Alfred:** Mr. Chairman, I have looked at this thing impartially. I have looked at it in the context that a Tobago House of Assembly was put in place to see generally to the affairs of Tobago and something as fundamental as development of Tobago, and we are talking here tourism, which is the main thrust for Tobago. If the Assembly cannot have a more significant say in terms of development for tourism, then the question of putting an assembly in place is practically useless. To say that they are to send comments, we go back to the same question that Sen. Dr. Mc Kenzie asked and which I brought up in my contribution. If the Assembly says, “No, we do not want a 1,000-room hotel here because it is going to destroy the whole of the south west coast”, or “We do not want a 500-room hotel there because the people in Tobago would not have access to the beaches”, what happens then? That is what I would like to know, Mr. Chairman.

**Mr. Maharaj:** Mr. Chairman, I think that we ought to consider that although Tobago has been granted some autonomy, the overriding policy is with the central Government, the Executive. That is the position. That is how it is.

**Sen. Prof. Spence:** I would have to disagree with the Attorney General on that point.

**Sen. Alfred:** Definitely. [*Crosstalk*]

**Mr. Maharaj:** All right, I do not want to get into the politics of this.



**Sen. Alfred:** We are not talking about the politics, we are talking about the Act.

**Mr. Maharaj:** The Act does not give Tobago powers to make policy decisions because the Act states quite clearly it is subject and without prejudice to the Cabinet powers, and the Cabinet determines policy. I think one could have different determinations, but that is the position. As a matter of fact, if you check the debate you will see that that is how the position was articulated. Be that as it may, the fact of the matter is, the policy of the Bill must be that in relation to these matters the Tobago House of Assembly will make recommendations.

What I would recommend is that, with respect to comments and recommendations, the words, "comments and" can be deleted, they could make recommendations and we would delete subclause (d) as amended because we do not need that, and the Assembly would make recommendations. So the application is made to the corporation, the corporation sends it to the Assembly, the Assembly makes recommendations and the matter is considered by the Executive. We may have situations where investors want to come into Trinidad and Tobago. They do not want a situation where, if one is approved and then it has to go for a veto, they have to wait for judicial review and all sorts of things.

**Sen. Alfred:** Why not, Mr. Chairman? It happens in other cases. We cannot have one law for one and another law for others.

**Sen. Dr. St Cyr:** Thank you, Mr. Chairman. I have a difficulty with a democratically elected Tobago House of Assembly making recommendations to a private corporation.

**Mr. Maharaj:** A private corporation?

**Sen. Dr. St. Cyr:** Well, a non-public sector corporation. I have a difficulty there.

**Mr. Maharaj:** Which is the private corporation?

**Sen. Dr. St. Cyr:** I am referring to TIDCO.

**Mr. Chairman:** The recommendations go to the Minister, as far as I could read it.

**Sen. Dr. St. Cyr:** Is it to the Minister?

**Sen. Mark:** Yes.

**Sen. Dr. St. Cyr:** That is not my reading of what the Bill says. I thought it went from TIDCO to the Tobago House of Assembly then back to TIDCO.

**Sen. Mark:** If you look at clause 11E of the amendment—*[Interruption]*

**Mr. Maharaj:** Delete the words, “Chief Executive Officer” in line four and substitute therefor the words, “Minister no later than thirty days after receipt of the application”.

**Sen. Montano:** Mr. Chairman, in the context of clause 13—*[Interruption]*

**Sen. Mark:** The amendments dated December 13?

**Sen. Montano:** In the context of clause 13 where it says:

*“Where the Minister is satisfied—and has received the support of the Tobago House of Assembly...”*

If he does not get the support of the Tobago House of Assembly, what happens?

**Dr. Nanan:** We are amending that also. There is an amendment to that.

**Sen. Dr. Mc Kenzie:** Mr. Chairman, having listened to the hon. Attorney General where he talks about the overriding power of the central Government, or whoever, over the—*[Interruption]* then it is neither here nor there. Whether you recommend or you object, the Government has the power to do what it wants. So let us not fool ourselves.

**Sen. Prof. Spence:** Mr. Chairman, I wanted to take issue with the Attorney General with respect to his interpretation of the Tobago House of Assembly Act. Now, I sat on that committee and I agree that there are ambiguities in the Act. Indeed, I did not sign the final report for just that reason. I felt that we had not carried the thing to its logical conclusion. However, in that Act we have a Schedule that gives policy-making powers for certain areas to the Tobago House of Assembly, including tourism.

Now, of course there is a clause which says, “subject to the Constitution”, but that clause means that you can take back that power, you can change that Schedule. In my opinion, that is what that clause means, not that you override what you have delegated. If you say, “subject to the Constitution” what you are saying is, “Sure we have given that power and we can take it back”. In that sense it is subject to the Constitution, not in the sense that, “We set up policy for Tobago but, really, it is not policy, you know, because we are setting the policy”. That does not make sense. If that was so, then the whole exercise that we went through in agreeing to that Act was a farce. Clearly it was a farce!

**Sen. Alfred:** That is exactly the point I was going to make, Mr. Chairman.

**Mr. Maharaj:** Mr. Chairman, if Sen. Prof. Spence is correct, then he subscribes to the view that there could be two Cabinets for Trinidad and Tobago.

**Sen. Alfred:** “Nah, nah, nah, nah”.

**Sen. Kuei Tung:** If what Sen. Prof. Spence says is correct, then the Tobago House of Assembly can establish policies for taxation, for the Board of Inland Revenue, for customs and excise because, under that same Schedule you are talking about, there are finance matters like that. They cannot change tax rates, they cannot change duty rates, so how could they be responsible for policy, Sen. Spence? They are responsible for administering administration. That means that they may be responsible for collecting the tax but certainly not for establishing the rates of tax, which is a policy matter. I think your argument is flawed, Sen. Spence.

**Sen. Prof. Spence:** Mr. Chairman, it is flawed because the Bill is flawed. His Government passed that Bill. He was in the Government that had the majority when that Bill was passed which said that their policy matters are determined by the Tobago House of Assembly. Now, obviously, it was flawed. However, in answer to the Attorney General let me say this. If he looks at the Welsh Assembly Act or the Scottish Assembly Act he will see that it is quite possible, within a country, to delegate certain responsibilities to a part of the country and still have the sovereignty of Parliament. So there is no difficulty with respect to our Constitution as far as that goes because you can delegate it and you can take it back. What we did in the THA Act was to delegate it. Now, if we want to take it back, fine. If we want to take tourism off the Fifth Schedule, fine.

**Mr. Maharaj:** Mr. Chairman, with the greatest respect to Sen. Prof. Spence, the Act expressly talked about, “in relation to section 75 of the Constitution”. Whatever is put in the Schedule, it is without prejudice and subject to this:

“There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the government of Trinidad and Tobago...”

Whether or not the Cabinet determines policy, if you start to have a situation in which the Cabinet would be subservient to an assembly in determining policy, then the question could be asked, “Why can the Laventille Regional Corporation not have the right to do that? Why can Point Fortin not have the right to do that? Why can Couva not have the right to do that?”

If it is that the representatives have to be involved, there is a representative for Tobago in the Cabinet or there can be two. So I thought it was my duty, Mr. Chairman, to make it clear that if we want to go the route of giving the Tobago House of Assembly powers of approval and having the Cabinet as the power to be appealed to, then we are going to have a situation where other corporations and other bodies would ask for the same power. I just wanted Members to know that.

**Sen. Prof. Spence:** Mr. Chairman, I just pointed out that in the United Kingdom that is the case with Wales and in Scotland. It does not mean that Dublin is asking for that power or that Cornwall is asking for that power. So that the argument the Attorney General is using certainly does not counter my argument.

**Sen. Alfred:** Mr. Chairman, I want to bring to the Attorney General's attention the fact that Tobago is not part of Trinidad. Tobago is part of the unitary state of Trinidad and Tobago. Laventille, Mayaro and Toco are places within Trinidad. Tobago is a separate island and that is why that Tobago House of Assembly Act was put in place. So to come now and split hairs and say this is because of this, or that is because of this, Mr. Chairman, I do not think that holds water. [*Desk thumping*]

**Mr. Maharaj:** I will take a note of that and I will take point at some other time.

**Sen. Marshall:** That is not valid, Mr. Chairman. We could put our casino down at Chacachacare. It is a separate island.

**Mr. Chairman:** Are there any other new comments on the amendment? We are still, just as a reminder, on Sen. Spence's amendment to clause 11.

**Sen. Moore:** Mr. Chairman, I do not want to enter into all the intricacies, but I have been in touch with the Assembly authorities up to this morning and we are told to support the position in the Bill where the Assembly might give approvals to projects in Tobago and not to support any other stand. So there is where we are as two Senators.

**2.50 p.m.**

**Mr. Maharaj:** Let him do that. I have no problem with that. Let him do that.

**Mr. Chairman:** Any other comment? Okay. We will vote on the amendments as circulated by Sen. Prof. Spence.

*Question, on amendment, put.*

*The Committee divided: Ayes 13 Noes 15*

## AYES

Moore, N.

Williams, Mrs. A.

Mohammed, Miss N.

Montano, D.

Alfred, Miss C.

Shabazz, M.

Belmontes, Miss C.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

## NOES

Mark, Hon. W.

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Gillette, Hon. L.

Tota-Maharaj, Hon. V.

Cuffy Dowlal, Ms. C.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

Cowie, D.

Dhanny, Dr. G.

Ramchand, Prof. K.

Marshall, P.

*Question negatived.*

**Mr. Chairman:** We now go to the amendment as circulated by the hon. Minister.

**Sen. Daly:** Mr. Chairman, the figures, what were they?

**Mr. Chairman:** They were 15/13.

**Dr. Nanan:** Mr. Chairman, I beg to move the amendment to the previously circulated amendment:

- A. In subclause (1) delete the words “involving the size of investment” and substitute the words “having the minimum capital expenditure”.
- B. In subclause (1), delete the words “Chief Executive Officer” and substitute therefor the word “Corporation”.
- C. Delete subclause (2) and substitute therefor the following new subclause:
  - (2) Upon receipt of an application under subsection (1) the Corporation may require the applicant to submit such information and plans as required, and without limiting the generality of the foregoing, the Corporation shall submit the application to the Assembly for comments and recommendations. The Assembly may require that satisfactory evidence be submitted to it with respect to any matter relevant to the application, proposed project, ownership of the tourism project or proposed tourism project or lands to be used in connection therewith, or to the estimated expenditure on the project, or the source of the funds thereof.
- D. In subclause (3) delete the word “recommendations” in line four and substitute therefor the words “comments and recommendations”.
- E. In subclause (3) delete the words “Chief Executive Officer” in line four and substitute therefor the words “Minister no later than thirty days after receipt of the application”.
- C. Delete subclause (4).

**Mr. Chairman:** There is an amendment to the Minister's amendment to subclause (2), deleting "comments and".

**Mr. Maharaj:** In clause 11(c)(2), it should read:

"...application to the Assembly for recommendations..."

So we are deleting "comments and". In other words, we are withdrawing D.

**Mr. Chairman:** The suggested amendment that has been circulated is further amended to the extent that D is deleted and the words "comments and" in the middle of C, are also deleted. So we will have A, B, C, E and F and an amended C which would read in the middle of it:

"...Corporation shall submit the application to the Assembly for recommendations."

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clause 12 reintroduced.*

**Dr. Nanan:** Mr. Chairman, there is an amendment as follows:

- A. In subclause (1) delete the words "Schedule 9" and substitute therefor the words "Schedules 7 and 9".
- B. In subclause (2) delete the words "Chief Executive Officer" and substitute therefor the word "Corporation".

**Mr. Chairman:** There are two amendments circulated by the hon. Minister. Any comments on those? Schedules renumbered and the substitution of the words "Chief Executive Officer" for the word "Corporation".

*Question put and agreed to.*

*Clause 12, as amended, ordered to stand part of the Bill.*

*Clause 13 reintroduced.*

**Dr. Nanan:** Mr. Chairman, there is an amendment as follows:

In subclause (1) delete the words "and has received the support of the Tobago House of Assembly" and substitute therefor the words "and has received the comments and recommendations of the Tobago House of Assembly".

**Mr. Chairman:** There is an amendment circulated by the hon. Minister.

**Dr. Nanan:** And there is an amendment to that amendment.

**Mr. Chairman:** The hon. Minister has further amended his amendment by taking out the words “comments and” in the fourth line. So it will read:

“...and has received the recommendations of the Tobago House of Assembly...”

**Sen. Prof. Spence:** Mr. Chairman, I would just like to make a comment and, of course, I do not agree with this clause. I would not call for a division again because, clearly, it would have the same result, but I certainly do not agree with the change that has been made.

**Mr. Chairman:** Noted. What we can, in fact, do, if I could interfere with the wording, we could also remove the words “Tobago House of” because “Assembly” is defined. So it would read:

“...recommendations of the Assembly...”

*Question put.*

**Mr. Chairman:** One against.

**Sen. Daly:** Why one?

**Mr. Maharaj:** It is two then.

**Sen. Daly:** Why specify one? If we have a voice, then we do not specify numbers.

**Mr. Maharaj:** Sen. Prof. Spence said he was not calling for a division.

**Sen. Daly:** That is not my point. My point is if we have a vote by voice, we do not specify the number. We just say the ayes and noes.

**Mr. Chairman:** The point is taken.

**Sen. Daly:** Thank you, Mr. Chairman. The way we must do things—

**Mr. Chairman:** I am much obliged to Sen. Daly.

**Sen. Daly:** Thank you very much.

*Question agreed to.*

*Clause 13, as amended, ordered to stand part of the Bill.*



**Mr. Chairman:** Clause 13 was the last clause, from my records, that was on the list of deferred clauses, so we will now revert to the two circulated amendments of Sen. Prof. Spence and the Minister. In order of listing, we will go back to clause 2, which is the first one on the Minister's list. I will suggest that we re-open the entire clauses rather than parts of clauses.

*Clause 2 recommitted.*

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

**Dr. Nanan:** Mr. Chairman, there are amendments as follows:

- A. Insert the words "Schedule 1" at the side of the definition of "articles of equipment for accommodation facilities".
- B. Insert the words "Schedule 3" at the side of the definition of "articles of equipment for Tourism ancillary facilities and services".
- C. In the definition of "camp-site" remove the hyphen between the words "camp" and "site", to become "camp site".
- D. In the definition of "owner" insert after the word "owns" in line one the words "or owns and develops".
- E. Insert the words "Schedule 6" at the side of the definition of "tourism infrastructure".
- F. Delete the words "aircraft services" in the definition of "transportation services".

**Mr. Chairman:** There are six amendments to clause 2 circulated by the hon. Minister. Any comments on any of the six changes to clause 2?

*Question put and agreed to.*

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

*Clause 3 recommitted.*

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

**Dr. Nanan:** Mr. Chairman, there is an amendment as follows:

- A. In line 3 of subclause (1) delete the words "and (4)" and substitute the words ", (4) and (5)".

- B. Delete subclause (3) and substitute therefor the following new subclause:
- (3) The tax benefits 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) a tax exemption not exceeding seven years in respect of the gains or profits from the approved tourism project;
- (b) a tax exemption in respect of the gains or profits derived from the initial sale of a villa or condominium or the site for a villa or condominium that forms part of an IRD which is an approved tourism project.

**Mr. Chairman:** There are two amendments circulated by the hon. Minister. Any comments?

**Sen. Daly:** Which one are we on?

**Mr. Chairman:** Clause 3. There are two changes: A and B. The first one is a correction to the numbering; the other one is a substitution for subclause (3). Any comments?

*Question put and agreed to.*

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

*Clause 14 recommitted.*

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

**Dr. Nanan:** Mr. Chairman, there is an amendment as follows:

In subclause (2) insert after the word “Order” the words “under section 16”.

**Mr. Chairman:** There is one amendment circulated.

**Sen. Prof. Spence:** Mr. Chairman, have we formally got agreement to re-open all these clauses?

**Mr. Chairman:** I thought we had got that at the beginning of the session.

**Sen. Prof. Spence:** I thought we would do it clause by clause.

**Mr. Chairman:** No. We have exhausted the list of deferred items and we have gone back to the ones for which amendments were circulated. We have not come to (2) of yours yet.

**Sen. Prof. Spence:** I am just saying that, formally, we should really get agreement on each clause.

**Mr. Chairman:** To re-open each clause. Well, the agreement we arrived at is to review the clauses for which further amendments have been circulated.

**Sen. Prof. Spence:** It may have been on the record. We did not do it formally. We really should have done it for the record. So that the question should have been put and a response obtained, so that the record of *Hansard* will show.

**Mr. Chairman:** I think the records will show that I asked for leave.

In clause 14(2), the amendment is:

In subclause (2) insert after the word “Order” the words “under section 16”.

—in the last line.

*Question put and agreed to.*

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

*Clause 15 recommitted.*

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

**Dr. Nanan:** Mr. Chairman, there is an amendment as follows:

In subclause (1) delete the words “in order to determine the appropriate tax benefits under Part 1”.

**Mr. Chairman:** The circulated amendment is to subclause (1).

...delete the words “in order to determine the appropriate tax benefits under Part 1”.

—which are the last few words in subclause (1). Any comments?

**Sen. Prof. Spence:** I wonder if we could ask an explanation of why these should have been made. I mean, it is difficult enough to absorb as we go along, not having seen them before. At least, we could have an explanation.

**Dr. Nanan:** That particular amendment, Mr. Chairman, was made with respect to the order in section 16 which is the order made by the Minister. It is just referring to section 16.

**Mr. Chairman:** No. We are on 15 now, subclause (1). Sen. Prof. Spence is looking for an explanation as to the deletion of the last sentence.

**Dr. Nanan:** That is the advice coming from Inland Revenue Department, Sen. Prof. Spence. It is not necessary.

**Mr. Chairman:** Apparently, it is found that those words are superfluous. I do not know if you share that view. Any other comments?

*Question put and agreed to.*

*Clause 15, as amended, again ordered to stand part of the Bill.*

*Clause 22 recommitted.*

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

**Mr. Chairman:** We have two amendments, one by Sen. Prof. Spence and one by the hon. Minister. Let us take Sen. Prof. Spence's first.

**Sen. Prof. Spence:** I would rather mine be taken as a new clause.

**Mr. Chairman:** As a new clause. Would you like any particular numbering?

**Sen. Prof. Spence:** Well, I have suggested it be a new clause 22 which would mean all the others are renumbered.

**Mr. Chairman:** Would you accept it as 22A?

**Sen. Prof. Spence:** Yes.

**Mr. Chairman:** Okay. We will take the amendment to clause 22 first. The Minister has circulated an amendment to clause 22.

**Dr. Nanan:** Mr. Chairman, I would like to withdraw my amendment to clause 22.

*Amendment withdrawn.*

*Question put and agreed to,*

*Clause 22 again ordered to stand part of the Bill.*

**Mr. Chairman:** Sen. Prof. Spence's new clause—I think it being a new clause, we would take it last.

**3.05 p.m.**

*Clause 35 recommitted.*

*Question again 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 words "whole or part of the" occurring in line 4.

**Sen. Prof. Spence:** Could we have some rationale? I am trying to do my duty by looking through the Bill, but it is very difficult.

**Dr. Nanan:** Mr. Chairman, we have removed the full or partial exemption.

**Mr. Chairman:** Earlier on in the Bill, we amended to remove the “full or partial”, so this is now superfluous.

*Question put and agreed to.*

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

*Clause 36 recommitted.*

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

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

- A. In subclause (1) insert after the word “project” the words “or the initial sale or lease of a villa or condominium or the site for a villa or condominium which forms part of an IRD which is an approved tourism project.”
- B. Delete subclause (4) and substitute the following new subclause:
 

“(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 of such tourism project accruing to such owner or operator after the expiration of the tax exempt period, in accordance with section 16 of the Income Tax Act.”

Mr. Chairman, this is to include the IRD and, also, subclause (4) is supposed to ensure that the losses that are put and agreed to—

**Sen. Montano:** I only got halfway through the clause. I do not think it is what the Minister just said. The Minister just said that the loss will be absorbed during the period and not after. I think the intention of this clause is for it to apply after the tax exemption period.

**Dr. Nanan:** What has happened before is that the losses were being taken after the tax holiday. What we are trying to do is take the losses within the tax holiday.

**Mr. Chairman:** The losses incurred during the tax holiday are carried forward beyond the tax holiday.

*Question put and agreed to.*

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

*Clause 37 recommitted.*

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

**Dr. Nanan:** Mr. Chairman, I beg to move the following amendment to clause 37 as circulated:

Renumber subclauses (2) and (3) as (3) and (4) respectively and substitute the following new subclause (2):

- “(2) A loss may be held over and carried forward where—
- (a) a return is made to the Board in respect of the accounting period in which the loss was made;” and
  - (b) a return is made to the Board for each accounting period between the accounting period in which the loss was made and the accounting period or year of income, as the case may be, in respect of which the loss is carried forward.”

*Question put and agreed to.*

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

*Clause 38 recommitted.*

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

**Sen. Prof. Spence:** Mr. Chairman, I propose the following amendment to clause 38:

Add a subclause (3) to read as follows:

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

Mr. Chairman, could you read the amended clause 38 in its original form? Because I have an idea that we have already approved the amendment I am suggesting.

**Mr. Chairman:** My problem is that I have the approved amendment, but I do not have it consolidated. Clause 38 pre-amendment was:

Subject to subsection (2), the Minister to whom responsibility for finance is assigned may, by order, exempt from tax, interest on an approved loan.

**Sen. Prof. Spence:** Then the approved amendment.

**Mr. Chairman:** The approved amendment says:

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 a lesser period". Then add a new subclause (3) to read "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 of a villa or condominium unit in an integrated resort development".

So it is already adopted.

**Sen. Prof. Spence:** I wish to withdraw my amendment.

*Amendment withdrawn.*

*Question put and agreed to.*

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

*New clause 22A*

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

**Sen. Prof. Spence:** Mr. Chairman, I beg to propose the following new clause 22A:

Add a new subclause to read as follows:

"All the powers and functions exercisable by the Minister under this Act in relation to Tobago are hereby transferred to the Assembly in relation to Tobago".

Mr. Chairman, it is clearly the case that if we call for a division, we are going to get the same voting as before, so I will withdraw this amendment. I want to just say that it has been taken directly from the Welsh Assembly Act. Certainly, if we had been smart in the way we set up the Tobago House of Assembly Act, we would have followed the procedure such as exists. It does not remove the sovereignty of the country's Parliament. It delegates certain responsibilities which delegation can be removed. Thank you.

*Amendment withdrawn.*

*New Subclause 7A.*

**Dr. Nanan:** Mr. Chairman, I propose the following new subclause 7A:

Insert after clause 7 the following new clause which reads as follows:

“Non conferral of benefits	7A. No benefits under this Act shall be conferred on”
	(a) the purchaser or lessee of a villa or condominium or the site for a villa or condominium in an IRD which is an approved tourism project; or
	(b) an owner or operator who has not obtained an Order in accordance with this Act.”

*New clause 7A read the first time.*

*Question proposed, That the new clause be read a second time.*

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New subclause 7A added to the Bill.*

*New Clause 41.*

**Dr. Nanan:** Mr. Chairman, I beg to renumber clauses 41 to 44 as 42 to 45 respectively and substitute a new clause 41 which reads as follows:

“Retrospective effect	41.(1) Where on the commencement of this Act any person is engaged in a tourism project which commenced on or after August 3, 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 the tax benefits that he would be entitled to, had this Act been in force from August 3, 1995.
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(2) Subsection (1) shall have effect from the date of Proclamation of this Act.

(3) Subsection (2) shall not apply to section 38.”

*New clause 4 read the first time.*

*Question proposed, That the new clause be read a second time.*

**Sen. Dr. St. Cyr:** Mr. Chairman, I would ask that the Minister tell us why he wants retroactivity in this case?

**Dr. Nanan:** Mr. Chairman, the significance of the date August 3, 1995, is that it is when the tourism master plan was finalized. What we have done is gone back to that date so that the projects that started or continued would be able to have the benefit with respect to corporation tax off the loan and the tax holiday.

**Sen. Dr. St. Cyr:** Yes, but does that mean that interest paid on moneys used in developing these projects between 1995 and now will now be brought in as tax exempt income?

**Dr. Nanan:** Mr. Chairman, if you noticed in that amendment, it is tax benefits, so it will only be related to tax. There will be no customs duty that will be subject to rebate, but I also want to point out here with respect to this particular retroactive effect that the tax holidays, if you look at amendments (2) and (3), the corporation tax off the loan would begin from 1995 onwards, but the tax holiday would begin from the date of proclamation of the Act.

**Sen. Prof. Spence:** They get tax benefits back to 1995, but their seven-year tax-free starts now? So they get five years plus?

**Mr. Chairman:** Let me just clear up one of the issues raised by Dr. St. Cyr. Subclause (3) clears that up in that this is the clause that deals with the exemption from tax on interest on loans. It specifically says that this does not apply to subsection 38. So, that particular head of claim is not eligible.

**Sen. Montano:** Mr. Chairman, what it is actually doing is that this section is allowing the project owners a tax exemption to begin from the date of the proclamation of the Act, but it is allowing the tax exemption to the lenders, the financiers, back to when they started the project, which may have been on or after August 3, 1995; because the undertaking was given to the financiers and they

*Tourism Development (No.2) Bill*  
[SEN. MONTANO]

Wednesday, December 15, 1999

have already been enjoying that tax benefit. So, this really is to give legal effect to what has been done only with respect to the financing.

**3.20 p.m.**

**Sen. Prof. Spence:** Does it not, therefore, have to say so? If it does not, then I do not see how you can avoid giving exemption on duties and all the rest to it. Does tax benefit mean only income tax?

**Mr. Chairman:** I think what I am hearing is that certain benefits were, in fact, accounted for in a sense—[*Interruption*]

**Sen. Montano:** Mr. Chairman, clause 41(1) replies to the person who is engaged in a tourism project, that does not mean the financier. Therefore, clause 41(1) does not apply to the financier.

**Mr. Chairman:** Okay, any other comments?

**Sen. Prof. Spence:** Mr. Chairman, could I understand precisely what we are doing in clause 41(1)? I would really like to know what we are doing.

**Mr. Chairman:** Sen. Montano try to do it for us again.

**Sen. Montano:** Clause 41(1) is granting to the owner of a project a tax holiday from the date of the proclamation of the Act for a period after one to seven years as the case might be. It gives the tax exemption to the owner of the project, not the financier.

**Sen. Prof. Spence:** Does that mean the owner of the project would have to pay normal interest rates because he has not been given any exemption?

**Mr. Chairman:** The tax benefits only start from the time the Act is proclaimed, but he is eligible because his project exists at the present time. This is what it is saying, is that so?

**Sen. Montano:** Insofar as the interest rates are concerned, what actually happened was that based on the undertakings that TIDCO gave to financiers as well as the developers, they had actually set in motion some of these tax free loans even though it was not a question of law; it was done on the basis of the undertaking. In fact, the low interest tax-free loans had been granted in certain situations prior to this Act.

**Sen. Prof. Spence:** That means that the Inland Revenue Department gave tax concessions that they were, in law, not entitled to do? Is that what we are being told? Minister of Finance, any comments?

**Mr. Chairman:** What this does is it repeals that Act. You now have to get it under that Act.

**Sen. Prof. Spence:** But you are saying that we are not giving it under this Act, we are only giving it to the developers. We ought to be careful of what we are doing, that is why I am trying to understand what we are doing. It is very simple, if I understand it—[*Inaudible*]

**Sen. Daly:** There is a transitional provision which, I believe, has the effect of application under the Hotel Development Act pending—not yet determined the transfers to this but it does not take anybody back.

**Sen. Prof. Spence:** One final question: is it clear from this clause that the benefits, when they start, retroactively, run for the period that you are giving it; that is seven years maximum?

**Mr. Chairman:** It is seven years maximum but it does not take effect until the date of the proclamation of the Act.

**Sen. Prof. Spence:** That is what worries me. That is why I am asking the question. I am not a lawyer, I am asking: is it clear, from this Act, that if you say it starts now and you are also getting the benefits five years back, then you have got—[*Interruption*]

**Mr. Chairman:** You cannot get it twice.

**Sen. Montano:** The developer is the only delegate who would get the tax exemption.

**Mr. Chairman:** I think we have said enough on this clause. Could we take a vote?

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 41 added to the Bill.*

*Schedule 3.*

*Question proposed, That Schedule 3 stand part of the Bill.*

**Dr. Nanan:** Mr. Chairman, I beg to move that Schedule 3 be amended as follows:

- A. Under the column "TOUR\* OPERATIONS" insert the word "Light" before "Aircraft".

This is to make it clear that it is not all aircraft.

- B. Insert the word "clubs" after "Bags".

*Question put and agreed to.*

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

*Schedule 5.*

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

**Dr. Nanan:** Mr. Chairman, I beg to move that Schedule 5 be amended as follows:

In paragraph (i) insert the word "all" before the words "the following basic criteria".

*Question put and agreed to.*

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

*Schedule 7.*

*Question proposed, That Schedule 7 stand part of the Bill.*

**Dr. Nanan:** Mr. Chairman, there is a circulated amendment to Schedule 7.

**Mr. Chairman:** There is a new Schedule 7.

**Sen. Prof. Spence:** Mr. Chairman, could we take a minute to look at it, please?

**Mr. Chairman:** Yes we will take a minute to look at it.

**Dr. Nanan:** Mr. Chairman, I beg to move that Schedule 7 be amended as follows:

Delete Schedule 7 and substitute the new Schedule 7, as follows: -

SCHEDULE 7

REQUIREMENTS OF OWNERS AND/OR OPERATORS WITH RESPECT TO VEHICLES IN APPROVED TOURISM PROJECTS

	<b>Limousine/ All Terrain</b>	<b>Tour Buses</b>	<b>Taxi Cooperatives</b>	<b>Other Taxis</b>	<b>Boats (Dive Boats, Water Taxis, Sport Fishing)</b>	<b>Helicopters</b>
<i>New/Used</i>	New/Used	New/Used	New/Used	New/Used	New/Used	New/Used
Purpose/ Use	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of guests/visitors	Solely for transportation of bona fide clients	Solely for transportation of guests/visitors and assist in emergency and evacuation activity.
<b>Resale/ Transfer of Title</b>	After a minimum of five (5) years	After a minimum of three (3) years	After a minimum of three (3) years	After a minimum of three (3) years	After a minimum of five (5) years	After a minimum of five (5) years
<b>Statutory Requirements</b>	Must be registered company or organization  Must meet all required government approvals	Must not have any outstanding civil or criminal offences  Must be registered company or organization  Must meet all required government approvals	Must not have any outstanding civil or criminal offences  Must meet all required government approvals	Must not have any outstanding civil or criminal offences  Must be registered company or organization  Must meet all required government approvals	Must not have any outstanding civil or criminal offences  Must be registered company or organization  Must meet all required government approvals	Must not have any outstanding civil or criminal offences  Must be registered company or organization  Must meet all required government approvals
<i>Conditions</i>		Must submit a business plan	No person shall benefit from this concession more than once in five (5) years  Used vehicles should not be more than five (5) years old and be subject to inspection and certification by the Licensing Department as to its road worthiness and suitability for	No person shall benefit from this concession more than once in five (5) years  Used vehicles should not be more than five (5) years old and be subject to inspection and certification by the Licensing	Dive Operations must have PADI and NAUI certification  Must submit a business plan	Must submit a business plan  Must submit a business plan

	Limousine/ All Terrain	Tour Buses	Taxi Cooperatives	Other Taxis	Boats (Dive Boats, Water Taxis, Sport Fishing)	Helicopters
			use as a taxi in accordance with the Used Car Importation Policy.	Department as to its road worthiness and suitability for use as a taxi in accordance with the Used Car Importation Policy.	Must submit a business plan	Must submit a business plan

Mr. Chairman, this amendment to Schedule 7 is just in conformity with what I moved with respect to constitutionality and members in good standing. Schedule 7 is amended accordingly.

*Question put and agreed to.*

*Schedule 7, as amended, ordered to stand part of the Bill.*

*Schedule 8.*

*Question proposed, That Schedule 8 stand part of the Bill.*

**Dr. Nanan:** Mr. Chairman, I beg to move that Schedule 8 be amended as follows:

Delete Schedule 8 and substitute the new Schedule 8, as follows:-

#### **SCHEDULE 8**

##### **RATES FOR TOURISM TRANSFER TAX\*\***

<b>Period</b>	<b>Tourism Transfer Tax</b>
Up to Year 1	12%
Year 2	12%
Year 3	10%
Year 4	10%

## SCHEDULE 8

## RATES FOR TOURISM TRANSFER TAX\*\*

Period	Tourism Transfer Tax
Year 5	10%
Year 6	8%
Year 7	8%
Year 8	Nil

\*\*The Tourism Transfer Tax is not meant to be a revenue-raising device but rather to serve the following:

1. To recoup revenues foregone by Government via concessions in terms of waiver of tax on interest on bridging finance and other loans, customs duty, as well as exemptions from Corporation Tax.
2. To discourage persons who merely want to take advantage of the incentives granted under this Bill and then dispose of their project for non-tourism use.
3. Stamp duty will not have to be paid on sale during the tax holiday period. This tax incorporates a percentage for stamp duty. However, stamp duty will be applicable on expiration of the tax holiday period.

This amendment is deleting the partial exemptions that were mentioned. It is just straight; 1–7 years.

**Sen. Prof. Spence:** I think we agreed to a further amendment to Schedule 8?

**Mr. Chairman:** Yes we deleted all the footnotes and the double asterisk.

**Sen. Dr. St. Cyr:** Mr. Chairman, are we on Schedule 8?

**Mr. Chairman:** We are on Schedule 8, that is correct.

**Sen. Dr. St. Cyr:** Under “5 year tax holiday” it would seem logical to add year 6 and in the column “Nil” to make it consistent with “6 year tax holiday” and “7 year tax holiday”.

**Mr. Chairman:** We now have a new Schedule. We have simplified Schedule 8.

**Sen. Dr. St. Cyr:** Oh! Thank you, Sir.

*Question put and agreed to.*

*Schedule 8, as amended, ordered to stand part of the Bill.*

*Schedule 9.*

*Question proposed, That Schedule 9 stand part of the Bill.*

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

Delete Schedule 9 and substitute the new Schedule 9, as follows:-

**SCHEDULE 9**

**MINIMUM CAPITAL EXPENDITURE**

TYPE OF TOURISM PROJECT	MINIMUM CAPITAL EXPENDITURE	
	International Investor	Local Investor
Accommodation Facility	18,600,000	2,500,000
Marina Boatyard	18,600,000	1,000,000
Eco-Lodges	6,200,000	500,000
Water sports	1,550,000	310,000
Charter Boats	5,000,000	310,000
Destination Management Companies, Ground Tour Operations	n/a	310,000
Recreational Space	1,550,000	620,000
Transportation Service	n/a	310,000
Tourism Infrastructure	3,100,000	310,000
Convention Centres, Shopping Facilities	6,200,000	620,000
Historical Landmarks, Heritage Sites	6,200,000	620,000
Film/Special Events	6,200,000	3,100,000
Theme Parks/Cultural Centres	31,000,000	9,300,000
Golf Courses	31,000,000	9,300,000



**Sen. Prof. Spence:** I want to thank the hon. Minister for having made the changes in Schedule 9, which I suggested.

**Dr. Nanan:** This was agreed and I made the necessary adjustments.

**Sen. Prof. Spence:** Thank you.

**Mr. Chairman:** Are there any further comments on Schedule 9? Sen. Prof. Spence, do you have any further amendments to Schedule 9?

**Sen. Prof. Spence:** It was withdrawn.

**Mr. Chairman:** Am I seeing that?

**Sen. Prof. Spence:** I accept the alterations that are made, therefore I withdraw that.

*Question put and agreed to.*

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

**3.30 p.m.**

**Mr. Chairman:** The question is whether we deleted the preamble. My recollection is that we deleted it, looking at *Hansard* here.

**Sen. Prof. Spence:** It is scratched out on my copy, so I think we must have deleted it.

**Mr. Chairman:** I am under the impression that we deleted it.

*Clause 9 reintroduced.*

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

**Mr. Maharaj:** What about clause 9? We had deferred it.

**Mr. Chairman:** The Attorney General is carrying me back to clause 9, which we had started to do and I was reminded that it was to be done after we did the deferred clauses. So I seek your leave to revert to clause 9. There are three amendments circulated by the hon. Minister.

**Dr. Nanan:** Just some tidying up there, Mr. Chairman. I beg to move that we amend clause 9 as follows:

- A. Delete the words “ancillary and” in paragraph (b).
- B. Delete the word “operators” in paragraph (c) and substitute the words “operations or”.
- C. Delete the word “company” in paragraph (c) and substitute the word “companies”.

*Question put and agreed to.*

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

*Preamble*

*Question put and agreed to.*

*Preamble no longer stands part of the Bill.*

**Mr. Chairman:** Just before we terminate the committee stage, I want to make an announcement for the benefit of the press, whom we have had present. I want to remind them that proceedings of the committee are not to be reported. I trust they would take due notice of that. So we now refer the matter back to the Senate.

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

*Senate resumed.*

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

#### **CRIMINAL PROCEDURE (AMDT.) (NO. 2) BILL**

*Order for second reading read.*

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Vice-President, I beg to move,

That a Bill to amend the Criminal Procedure Act, Chap. 12:02, be now read a second time.

Mr. Vice-President, this is a very short and simple Bill. I do not think that this Bill will generate much debate. The Criminal Procedure (Amdt.) (No. 2) Bill seeks to amend section 3 of the Criminal Procedure Act, Chap. 12:02, an Act which regulates the procedure to be adopted in criminal cases triable on indictment.

The conjoint effect of the amendment is to empower the Director of Public Prosecutions to enter cases for trial involving drugs and firearms offences at Chaguaramas, regardless of where the offences were committed in Trinidad and Tobago. It further stipulates that where drugs and firearms offences have already been entered for trial in the High Court in Port of Spain, San Fernando and Tobago, the Director of Public Prosecutions would be empowered to have the trials transferred to Chaguaramas.

Mr. Vice-President, there is no denying that there has been a proliferation of drugs and firearms offences in Trinidad and Tobago. For some time now,

governments have been trying to have a system whereby in a particular court you could have had these matters being done very quickly and to have a specialized court for drugs and firearms matters.

Although the last administration drafted a Drug Court Bill, it did not proceed with it and it was thought, in working out this policy, that what we should do is give to the Director of Public Prosecutions the power to have these cases transferred to Chaguaramas—which has all the security arrangements in relation to a court—and a court to deal with these kinds of matters and, ultimately, to have created at Chaguaramas a place where you can have both the High Court and Magistrates' Court dealing with these matters.

The Bill has been drafted in the spirit of consultation with the relevant authorities and bodies and it is, in effect, the purpose to do that.

Mr. Vice-President, I beg to move that this Bill be now read a second time.

*Question proposed.*

**Sen. Nafeesa Mohammed:** Mr. Vice-President, this afternoon, it seems as though everybody is in a good mood, or most people seem to be in a good mood, and in the spirit of the season, we would be very brief on this side in terms of the Bill that has just been presented. It is, in fact, a brief Bill, and on another occasion I would not mind running the risk of sounding like a recurring decimal, but we will leave that for next year.

With respect to the provisions of the Bill, we on this side have no difficulties in supporting the measure to have these types of trials heard in the Chaguaramas court. We have heard that there has been consultations with the various groups or persons involved. It is a matter that the Director of Public Prosecutions would have the ultimate say in terms of which matters would be heard in that court.

As we speak of the Director of Public Prosecutions, I wish that the hon. Attorney General in his winding up would be able to shed some light on one or two issues that had been on the agenda in recent times. One of which pertains to the issue of vacation leave and legal officers, which I know the Office of the Director of Public Prosecutions has been pursuing against the hon. Attorney General and who should have the say. It does, in fact, have some bearing on the Bill before us. After all, it is the Director of Public Prosecutions' Office we are talking about. We would like to know what is the status of the representations that have been made with respect to that issue of vacation leave and the Attorney General wanting to have the last say in that kind of matter.

The other matter that we are concerned about is the situation involving the magistracy, the very terrible conditions that continue to exist and the present status of the relocation of the Magistrates' Court from NIPDEC House to St. Vincent Street. Recently, I read in the newspapers where there was some reference to an ongoing dispute between the Attorney General's Office and other quarters pertaining to the furnishings to be used in the building. Certainly, we would like to know as well what is happening with that issue. It is a very topical issue and the terms and conditions of our magistrates continue to be on the agenda. So we hope the Attorney General would say a few words to us before we wind up this afternoon and, as we come to the end of the year, at least we would know where we stand next year. So, we on this side support the Bill that is before us.

Thank you very much, Mr. Vice-President.

**Sen. Martin Daly:** Mr. Vice-President, I feel a particular empathy with the Attorney General today, not only because it is Christmas time, and having regard to the fact that this is the court for the prosecution of drugs and firearms offences, I think I could speak for a large section of the country when we say that we hope that the results of prominent prosecutions are more positive in this new environment. There is a certain amount of gloom in the country today, for which the Attorney General can in no way be blamed; and that is why I feel a certain empathy. I just wish to repeat that I hope that the results of prosecutions in this court dedicated to firearms and drug offences are more positive than more recent events, for which I have a certain sympathy for the Attorney General today.

Thank you, Mr. Vice-President.

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Vice-President, I think this is the shortest debate that I have ever witnessed in this honourable Senate.

I think, in relation to Sen. Nafeesa Mohammed, she would appreciate that in matters affecting the administration of justice, there would have to be a substantive motion, really. It would not be right for me to deal with those matters under the guise of this matter. I am sure she would forgive me if I do not respond to those matters, and there are avenues she has if she wants to utilize them.

I think Sen. Daly has raised an important point, but it also falls under that principle. I think that I can use the opportunity to say that I am very concerned as to what transpired yesterday. I have requested from the Director of Public Prosecutions a report in respect of the matter. I got that report this afternoon, and I

would have to get a fuller report, but I think that I can say that I may have to consider the position, after I get a fuller report, to make a statement on the matter. For the time being, I would merely like to say, I share the concerns of Sen. Daly and other members of the community.

These are matters in which public concerns have already been raised, even before I came to this Chamber this afternoon. Here it is that you have this situation in which what is decided in the courts, the politicians, the Ministers are accountable for it in Parliament and one has to be very careful how one gets the information and one would have to be very careful how one replies on that matter.

Mr. Vice-President, I beg to move that this Bill be 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.*

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

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

*Senate resumed.*

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

**3.45 p.m.**

**LIMITATION OF CERTAIN ACTIONS (AMDT.) (NO. 2) BILL**

*Order for second reading read.*

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Vice-President, I beg to move,

That a Bill to amend the Limitation of Certain Actions Act 1997 be now read a second time.

Mr. Vice-President, this also is a very short and simple Bill. When there was the debate on the Limitation of Certain Actions Act the question was asked as to what we were going to do with respect to limitations in workmen's compensation matters. We gave an undertaking that the Government would be bringing an Industrial Injury and Disability Compensation Bill which would deal with that matter. However, the policy of that Bill is still being worked out; these things take such a long time. I do not understand sometimes why they take so long, but they

*Limitation of Certain Actions Bill*  
[HON. R. L. MAHARAJ]

*Wednesday, December 15, 1999*

do. What we have decided to do in the meantime is to bring this short amendment in order to alleviate the problems in workmen's compensation matters.

The statutory time in making a claim in a workmen's compensation matter is six months and there is a one-year limitation if you want to file a common law action for negligence in addition to workmen's compensation. What this Bill does is to remove that six-month period and put it to one year as is done in some other countries, and to remove the one year and put it to four years, in conformity with the amendments we have already done in the Limitation of Certain Actions Act.

Mr. Vice-President, I beg to move.

*Question proposed.*

**Sen. Nafeesa Mohammed:** Thank you, Mr. Vice-President, because of the kindness of the hon. Leader of Government Business this afternoon, we would be even shorter on this Bill. We believe that the proposed amendment is a very good measure and we on this side support it.

Thank you.

**Sen. Dr. Eric St. Cyr:** Mr. Vice-President, I would have just one question about clause 4(i) where it says:

"...delete the words 'one year' and substitute the words 'four years'.

I would ask that when the hon. Attorney General is winding up he gives us some rationale for such a big change; one year to four years rather than one year to two or three years.

Thank you.

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Vice-President, with respect to what Sen. Dr. St. Cyr has raised, there would be no countries where you have four years for workmen's compensation claims, because when a workman is injured he makes a claim, so the employer would know there is a claim. You have one year to make the claim to the employer; you have six months now.

What has happened is that a lot of points have been taken that the workman did not make the claim to the employer within that six-month period. But as long as the claim has been made within six months the workmen's compensation application can be filed. The claim must be made within six months.

**Sen. Dr. St. Cyr:** Mr. Minister, I have no problem with six months to one year, but I was more concerned about one year to four years, that is in clause 4(i).

**Hon. R. L. Maharaj:** As to why we are putting it to four years. Oh, sorry. In the Limitation of Certain Actions Act of 1997, the parent Act to this Bill, we amended the time frame in which persons can bring actions. There used to be a statutory time frame in some cases against the state for one year, but we have removed that and put it to four years. We have also said that in relation to actions for contracts and so forth, it would be four years and in personal injury matters and negligence cases the court would be given a discretion to even extend that time.

What happens now is that when a person is injured and he has a workmen's compensation claim, apart from getting statutory compensation under the Workmen's Compensation Act he could also file an action for negligence against the employer. Under the present law, if he waits more than a year and he collects money under the Workmen's Compensation Act, his action is statute barred. We want to extend that to four years to bring it in conformity with the policy of the parent legislation. That is the rationale for it.

Mr. Vice-President, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

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

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

*Senate resumed.*

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

#### FELICITATIONS

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. Vice-President, before moving to have this honourable Senate adjourned to a date to be fixed, may I, on behalf of all my senatorial colleagues on this side, extend warmest felicitations to all Senators and their families, especially you, Mr. Vice-President, and our President who is currently recovering from a slight bout of illness.

We on this side would also like to extend season's greetings to the Clerk of the Senate, her hardworking staff, the members of the Hansard division, other members of staff and their families, as well as all policemen and policewomen

*Felicitations*  
[HON.W. MARK]

*Wednesday, December 15, 1999*

who have provided us with the necessary security since the commencement of this session of Parliament.

Greetings are also in order to the Sergeant-at-arms, our couriers, members of the media and their families, for a season of peace, happiness and joy.

We have had a very hectic period in the past few months and we expect an even more hectic one in the coming period. We would like at this time to also take this opportunity on behalf of our Bench and I suspect all Senators here, to extend warmest season's greetings to His Excellency President Arthur Napoleon Raymond Robinson and his family on this very joyous and holy occasion.

Mr. Vice-President, I would like to assure this Senate that we expect to be here to extend similar greetings in the not-too-distant future, particularly, as we move to the year 2,000 and beyond. So I extend greetings to each and everyone.

**Sen. Nafeesa Mohammed:** Mr. Vice-President, I rise to extend on behalf of my colleagues on this side of the Senate, to all Members of the Senate and their families, to you, Mr. Vice-President, and your family, and indeed, to the President of the Senate, who is presently ailing, and his family, season's greetings.

To the very hard working parliamentary staff we particularly wish to extend warmest greetings. To the Clerk of the Senate, the entire staff, and the Hansard reporters, the security services and members of the media who are present, we extend warmest greetings to them and, indeed, to the President of the Republic.

At the same time, the festivities that are being experienced throughout the world today coincide with another very sacred time. To all our fellow Muslim brothers and sisters we extend, once again, greetings for the holy month of Ramadan and most of all Eid Mubarak greetings, which will be expected very early in the new year.

We look forward to being here next year in the next few weeks and we are prepared to do whatever is necessary to ensure that things go smoothly in our country.

We thank you, Mr. Vice-President.

**Sen. Prof. John Spence:** Mr. Vice-President, may I join my colleagues in extending season's greetings to yourself, Sir, and to the President with a wish that he recovers quickly from his illness. We also join you in extending greetings to the President of the Republic.



Particularly, I would like to give our thanks and greetings to the staff of the Senate, the staff of the library, the Hansard staff and all the other staff that service us in this activity that we undertake here. To the police whose presence is always very welcome here, to the media, and lastly, I would ask the Leader of Government Business in the House to convey our greetings to the Speaker and Members of the other place. Also to our Muslim colleagues who are engaged in religious activity of a different sort, we also send greetings to them. Mr. Vice-President, I wish everyone a merry, but not too excessive Christmas.

Thank you.

**4.00 p.m.**

**The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj):** Mr. Vice-President, I think that I am very fortunate to be here today because I had sought your indulgence and your permission to be able to bring greetings to the Senate on behalf of the House of Representatives.

What we had over the last few days shows that although the House of Representatives is on holiday, the Attorney General is not, in that the Senate was sitting, and a Member of the House was here working, but I am sure that all Members would agree that notwithstanding the difficult task we had, it was a very enjoyable and constructive session.

Mr. Vice-President, Christmas time is a time when—no matter what religion one belongs to—one feels that one must thank God for what has happened over the last year and look forward to the future. To wish all friends and persons with whom you may have had differences, everyone, a very happy Christmas and a blessed New Year.

We in this Chamber, would have had differences from time to time, we would have disagreed on matters, and it is very good that we can, at this time, wish each other a very happy Christmas and a bright and prosperous New Year. As a matter of fact, I think if one looks at the story of Christ, one would see that we must learn to forgive and forget and, perhaps, one of the matters we can think of for the New Year is that it can be a time when there will be greater challenges for us as Members of Parliament and we would be able to try to forgive and forget at times in order to be more accommodating in respect of other people's views. We have seen over the last few days how we were able to achieve that kind of success.

I take this opportunity on behalf of the House of Representatives to wish all Members of the Senate, their families, and all members of the staff, a very blessed

*Felicitations*

[HON. R. L. MAHARAJ]

*Wednesday, December 15, 1999*

Christmas and a bright and prosperous New Year. To wish the members of the police service, the security service and all who have participated in this process, a very blessed Christmas and a bright and prosperous New Year.

We join the members of the Muslim community at this holy time in their celebration of Eid ul Fitr and take the opportunity of wishing them a blessed period also.

Thank you.

**Mr. Vice-President:** I am glad I still have the last say in here. I thank those who have expressed these warm sentiments of Christmas greetings, not only to myself, my wife and family, but to the President and his family, and wishes for his quick and complete recovery from his short setback.

I also advise that I have instructed the staff to pass on to His Excellency and his family our warmest greetings for a holy and happy Christmas season and a bright New Year.

I endorse those sentiments which have been expressed across the House, and wish to attach to them a very sincere note of gratitude from the Chair to all the Members of the Senate, staff and other members of the parliamentary staff, the dedicated and hard-working Hansard reporters, security officers, the media who are here with us for long hours, and other members of staff here who contribute in no small way to make our life that more comfortable during the course of the year. I extend, in addition to warm Christmas greetings to them and their families, a sincere note of gratitude for the support we got over the last few months.

In saying that, I personalize it to those present—the Independent Senators, Opposition Senators and the Government Senators—a sincere note of warm greetings over this Christmas season. I trust that you will treat the season cautiously. It is a special year for some, but we all want to be back here early in the New Year to continue where we left off. On that note, Christmas blessings to you all and your respective families.

*Motion made and question proposed, That the Senate do now adjourn to a date to be fixed. [Hon. W. Mark]*

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 4.07 p.m.*