

New Year's Greetings

Tuesday, January 18, 2000

SENATE

Tuesday, January 18, 2000

The Senate met at 10.32 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

NEW YEAR'S GREETINGS

Mr. President: Hon. Senators, let me first of all welcome you all to our first sitting for the year 2000.

LEAVE OF ABSENCE

Mr. President: Hon. Senators, leave of absence has been granted to Sen. Philip Hamel-Smith for the period January 18—25, 2000. Leave of absence has also been granted to Sen. Dr. the Hon. Daphne Phillips from today's sitting and continuing.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. VINCENT CABRERA

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

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from 18th January, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Philip Hamel-Smith.

Given under my Hand and the Seal of the President of the
Republic of Trinidad and Tobago at the Office of the
President, St. Ann's, this 14th day of January, 2000.”

Senators' Appointment
[MR. PRESIDENT]

Tuesday, January 18, 2000

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. DAVE COWIE

WHEREAS Senator Dr. Daphne Phillips is incapable of performing her functions as a Senator by reason of illness:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVE COWIE, to be temporarily a member of the Senate, with effect from 18th January, 2000 and continuing during the period of illness of the said Senator Dr. Daphne Phillips.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of January, 2000.”

GLORIA THOMASOS-POLLARD
(DEATH OF)

Mr. President: Hon. Senators, I wish to record the death of a former Member of Parliament, Mrs. Gloria Thomasos-Pollard, who died on January 03, 2000 and was interred on January 09, 2000.

Mrs. Thomasos-Pollard served as a councillor of the Arima Borough Council during the period 1983—1986 and in 1986 became the Member of Parliament for the Arima constituency until 1991.

The Clerk of the Senate has been instructed to send a letter of condolence to the bereaved family as we, in this Senate, express our sympathy to the family of the deceased.

Members wishing to pay tribute may do so now.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, may I join you in extending, on behalf of the Government of Trinidad and Tobago and us here in the Front Bench, our sympathy to the family of the late Gloria Thomasos-Pollard.

I did not know her in the way I would have liked to, but from my understanding of her contribution—whilst she was a Member of Parliament and as a Member of the National Alliance for Reconstruction—as a woman, she did play her role and her part in seeking to advance the interests of her people and, particularly, women.

On our behalf, we would like to extend our heartfelt sympathy on her passing. May her soul rest in peace.

10.40 a.m.

Sen. Nafeesa Mohammed: Mr. President, I rise on behalf of my colleagues on this side of the Chamber and indeed on behalf of the People's National Movement, to express our deepest condolences to the family of the late Mrs. Gloria Thomasos-Pollard.

Mrs. Pollard certainly was a woman of substance who came from a family background that had dedicated many years to serving the people of Trinidad and Tobago. As a child growing up, I remember the memories of her deceased father who was a former Speaker of the House of Representatives, Mr. Arnold Thomasos. Like her father, she certainly followed in his footsteps, having served, not just as a teacher in the country, but certainly to become a politician. In the 1980s she served as a councillor in the Arima Borough Corporation, and later on in 1986 she became a Member of Parliament for the Arima constituency.

I note, in fact, that she was a student of the St. Joseph's Convent in Port of Spain and, being my *alma mater*, I can certainly testify to the fact that she would have made a significant contribution during her term in office as a politician and indeed as a teacher.

We certainly wish to extend our deepest condolences to her children and to the rest of her family. As we all would say, it is from God we came and to God is our eventual return.

Sen. Prof. John Spence: Mr. President, may I on behalf of the Independent Bench offer our sympathy and condolences to the family of Mrs. Thomasos-Pollard. There are not many families that you can think of in Trinidad in which

Gloria Thomasos-Pollard (Death of)
[SEN. PROF. SPENCE]

Tuesday, January 18, 2000

the second generation has followed the first in giving service in politics, they give service in other ways—there are two in front of us here—but not too many, so in that too we must congratulate.

May we offer our sympathy to the family on behalf of the Independent Senators. Thank you.

Mr. President: Hon. Senators, as a mark of respect, I ask everyone to stand in a minute's silence please.

The Senate stood.

Mr. President: Thank you.

OATH OF ALLEGIANCE

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

Vincent Cabrera, Dave Cowie.

ARRANGEMENT OF BUSINESS

Mr. President: Hon. Senators, with your permission, I would like to revert to items 2 and 3 at a later stage of the proceedings please. Do I have your leave?

Agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Agricultural Development Bank of Trinidad and Tobago for the year ended December 31, 1998. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Programme of Institutional Strengthening of the Women's Affairs Division of the Ministry of Culture and Gender Affairs for the period July 25, 1994 to December 31, 1994 as required by a Non-technical Co-operation Agreement of ATN/SF-4348-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*Hon. W. Mark*]
3. Audited financial statements of the National Quarries Company Limited for the financial year ended July 31, 1997. [*Hon. W. Mark*]
4. Audited financial statements of the National Quarries Company Limited for the financial year ended July 31, 1998. [*Hon. W. Mark*]
5. The Cremation (Amdt.) Regulations, 1999. [*Hon. W. Mark*]

INTEGRITY IN PUBLIC LIFE (NO. 2) BILL**Special Select Committee Report
Presentation**

Sen. Danny Montano: Mr. President, I beg to present the report of the Special Select Committee of the Senate appointed to consider and report on the Bills entitled “An Act to provide for the establishment of the Integrity Commission; to make new provisions for the prevention of corruption of persons exercising public functions; to preserve and promote the integrity of public officials and institutions, and for matters incidental thereto”; “An Act to amend the Constitution of the Republic of Trinidad and Tobago”; and “An Act to amend the Constitution of the Republic of Trinidad and Tobago”.

ORAL ANSWER TO QUESTION**Miss Universe Pageant
(Costs incurred with regard to Hangar)**

The following question stood on the Order Paper:

5. Could the Minister of Trade & Industry and Consumer Affairs state:
 - A. How much did it cost the Government or the Pageant Company to prepare the Hangar at Chaguaramas for the Miss Universe Pageant?
 - B. What is or will be the cost to the Government or the Pageant Company to dismantle the fixtures and fittings at the Hangar at Chaguaramas after the Miss Universe Pageant?
 - C. Could the Minister inform the Senate of the terms and conditions (financial and otherwise) under which the rental or lease of the Hangar for the Pageant were made? [*Sen. M. Shabazz*]

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, this answer is ready, but I have not seen the hon. Minister of Trade & Industry and Consumer Affairs at this time, and I would like to respectfully suggest that we defer the answer to this question for one week.

Question, by leave, deferred.

WIDOWS' AND ORPHANS' PENSIONS (AMDT.) BILL

Bill to amend the Widows' and Orphans' Pensions Act, Chap. 23:54 [*The Minister of Finance, Planning and Development*]; read the first time.

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

Question put and agreed to.

POLICE COMPLAINTS AUTHORITY (AMDT.) BILL

Bill to amend the Police Complaints Authority Act, No. 17 of 1993, and for matters connected therewith and incidental thereto [*The Minister of National Security*]; read the first time.

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

Question put and agreed to.

INTELLECTUAL PROPERTY (MISCELLANEOUS AMEDMENTS) BILL

Bill to amend the Geographical Indications Act, 1996, the Patents Act, 1996, the Protection Against Unfair Competition Act, 1996, the Layout-Designs (Topographies) of Integrated Circuits Act, 1996, the Protection of New Plant Varieties Act, 1997 and the Copyright Act, 1997 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

NATIONAL LOTTERIES (AMDT.) BILL

Bill to amend the National Lotteries Act, Chap. 21:04, and for matters connected therewith or incidental thereto [*The Minister of Finance, Planning and Development*]; read the first time.

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

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave to deal with "Bills Second Reading" before dealing with "Motions".

Agreed to.

SHIPPING (MARINE POLLUTION) BILL

Order for second reading read.

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. President, I beg to move,

That a Bill to provide for powers and jurisdiction in relation to pollution of the seas from ships, intervention on the high seas in cases of oil pollution, dumping of wastes at sea, prevention of pollution from ships, preparedness and response for oil pollution emergencies, liability and compensation for pollution damage and matters incidental thereto, be now read a second time.

Mr. President, it is within the context of the importance of the environment to Trinidad and Tobago, our sacred duty to ensure that we keep our country beautiful and clean and our rivers and the seas pure rather than polluted, that I present to you the Shipping (Marine Pollution) Bill.

This Bill continues this Government's efforts as a comprehensive environmental, health, safety and security policy which seeks to provide a uniform regime for the protection and preservation of the marine environment of Trinidad and Tobago from vessels' source pollution. It complements several other initiatives of this Government aimed at improving the quality of the environment of Trinidad and Tobago and, consequently, the safety and well-being of our citizens.

10.55 a.m.

This Bill is a critical building block of our environmental policy. It incorporates specific measures to reduce pollution and to preserve our fragile marine ecosystem. The marine space of Trinidad and Tobago is several times vaster than its land space. The exploitation of its natural and extractive mineral resources would continue to be of great economic significance in the coming decades.

The importance of our marine environment to our culture and way of life, as a tourism resource, and as our patrimony to future generations of our people cannot be overstated. We are, and would continue to be, island people. We must preserve our marine heritage now by ensuring that the laws are in place and the means are available to enforce those laws.

Mr. President, Trinidad and Tobago is a party to the United Nations Convention on the Law of the Sea (UNCLOS). Article 192 of the Convention

Shipping (Marine Pollution) Bill
[HON. S. BAKSH]

Tuesday, January 18, 2000

provides that "States have the obligation to protect and preserve the marine environment." When we came into office we found that there were no effective statutes in place to protect the marine environment from ship-generated pollution.

The Shipping Act, No. 24 of 1987, provides for registration of vessels and overall safety matters relating to vessels, their navigation and crew. The Oil Pollution of Territorial Waters Act of 1951, which makes provision for the discharge or escape of oil by vessels into the waters of Trinidad and Tobago, is clearly outdated. The legislation only deals with oil and oily waste discharges into the territorial sea, and makes no provision to compensate parties affected by oil pollution damage. The matter of compensation is one of considerable importance and it is addressed in this Bill.

In 1993, the countries of the wider Caribbean region, became increasingly concerned about the pollution of the marine environment, mainly, garbage from cruise ships. They requested the International Maritime Organization to declare the region a special area under Annex V of the International Convention for the Prevention of Pollution from Ships, Marpol 73/78. A technical assistance project entitled the Wider Caribbean Initiative on Ship-generated Waste was approved by the Global Environment Facility (GEF), through the World Bank.

This project was intended to assist the region in identifying the technical and legal requirements for ratifying and implementing the convention in general, and the special area designation under Annex V, dealing with garbage, in particular. One of the significant outputs of the Wider Caribbean Initiative Project was the attachment of a legal expert who assisted in the drafting of the Shipping (Marine Pollution) Bill.

A committee was appointed to look into safeguarding the environment from oil spills. The committee decided to recommend a plan of action that would involve the adoption of several international treaties to protect the marine environment. One major concern was oil pollution, which was seen as a major threat. At that time, Mr. President, over six million tonnes of oil products and other hydrocarbon derivatives were moved by bulk shipments annually through the Gulf of Paria. This problem has increased over the last few years.

The plan of action also covered the other four main categories of ship-generated waste; namely, garbage, sewage, noxious liquids and liquids carried in bulk, for example, chemicals and harmful goods in packaged form.

Traditionally, the normal waste generated by vessels while at sea has been discharged at sea. This is still a common and legally allowable international practice under approved criteria. The generation of garbage has been singled out as an extremely significant threat to the marine environment of the Caribbean. Many ships have treatment and storage facilities for this waste. Many others, particularly the small and older vessels, do not. Sewage waste is also of particular concern, especially in small vessels that have no sewage holdings or treatment facilities.

All vessels generate operational waste. The Caribbean is a very special cruising area and about 90 cruise ships regularly bring over 400,000 visitors per month to the Caribbean. A typical large cruise ship may carry 1400 to 2000 passengers and 600 to 900 crew, and each person can generate between 0.3 kilograms to 3.5 kilograms of waste per day. Many modern cruise ships have active waste management programmes on board and can hold their garbage for several days, incinerate it or take it back to their port of origin.

However, there are still a large number of smaller and older ships which need to discharge their garbage at sea or in ports more frequently. Although the cruise ships are responsible for about 77 per cent of all ship-generated garbage, it is important to remember that all ships produce solid waste, including fishing vessels and recreational boats. On smaller vessels, the common practice is still to throw everything overboard.

With respect to sewage, some figures place the average amount of sewage and waste generated per day per person at 1.5 litres. The average yacht or small passenger-type ship which will not have a treatment system, will generate 230 litres of sewage and grey water daily. Grey water includes liquids from sinks, showers and other non-sewage contaminated liquids.

Ships plying the Caribbean are estimated to generate about 12,000 tonnes of oil-contaminated bilge water and 40,000 tonnes of fuel sludge since their last port of call. The majority of this waste is dumped into the environment because of a lack of regulation.

11.05 a.m.

Trinidad and Tobago has the highest traffic in oil tankers of the region with the exception of Venezuela. Over 5,300 vessel calls were made at Trinidad and Tobago ports in 1999. This figure exceeds calls on all other Caricom ports put together. Over 83.5 per cent of the commercial ships were over 500 gross tonnes, carrying bulk oil, other specialized extractive cargoes such as LNG, ammonia and

Shipping (Marine Pollution) Bill
[HON. S. BAKSH]

Tuesday, January 18, 2000

methanol, other containers and dry bulk cargoes; this does not take foreign yachts into account. There was an additional 2,827 of these vessels calling in Trinidad and Tobago.

Many of our yachts stay for more than six months annually at varying anchorages in the country. This figure also does not include the assortment of other vessels under 24 metres in length engaged in fishing activities, supplies and other commercial services in the waters of Trinidad and Tobago.

In spite of the overwhelming need for a comprehensive regime to control ship-generated marine pollution, Trinidad and Tobago is one of the five remaining countries in Caricom which did not put any legislation in place to deal with the problem. Yet, when one considers the level of traffic moving through the Gulf of Paria, we are the Caricom country with the greatest imperative to do so.

In this and so many other areas of importance to the culture, livelihood and future of the people of Trinidad and Tobago, our Government is seeking to make up for the years that we have not done so. This Bill is one such attempt to ensure and safeguard the future of this country and the sustainability of our economy, culture and our marine heritage.

Mr. President, marine pollution carries a great economic and social cost. In addition, marine pollution incidents are not country-specific; what affects us would most likely affect nearby states. As such, it is in our interest to be part of regional initiatives aimed at protecting the marine environment. Currently, there is no legal recourse for any international compensation for damage from oil pollution to our beaches, fisheries resources or other economic losses resulting from oil damage. This long overdue Bill is, therefore, a critical input to the overall survival and sustainability of our precious marine environment.

The Shipping (Marine Pollution) Bill is a very comprehensive piece of legislation. It establishes the framework to prevent the discharge of main categories of operational waste from ships into the marine environment as well as prescribes against the deliberate disposal of other waste from vessels and aircraft into the sea. The Bill confers powers and jurisdiction to intervene on the high seas when the marine environment of Trinidad and Tobago is threatened by oil pollution from ships.

Lastly, the Bill includes provision for international co-operation to respond to an oil pollution incident and establishes a regime of liability and compensation for oil pollution damage in the waters of Trinidad and Tobago.

The Bill seeks to give force of law to the six main international conventions administered under the auspices of the International Maritime Organization (IMO). Four of these conventions deal with pollution prevention, disaster mitigation and co-operation, namely:

- 1) the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol in 1987 relating thereto (MARPOL 73/78);
- 2) Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter or (London Convention), 1972 as amended;
- 3) the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties Intervention 1969 and the Protocol of 1973;
- 4) International Convention on Oil Pollution Preparedness, Response and Co-operation 1999.

The remaining two conventions deal with liability and compensation for pollution damage that is:

- 5) the International Convention on Civil Liability for Oil Pollution Damage 1992, (CLC)
- 6) the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) 1992.

Mr. President, I will like to go through the nine main parts of the Bill, highlighting important provisions and their purpose: Part I, Preliminary; Part II, Powers and Jurisdiction under International Law of the Sea. Part I defines the framework terms used in the Bill. It should be emphasized that each part of the Bill contains an interpretation specific to the purport of that part and contains definitions peculiar to that part.

Part I also sets out its main objects which are: to protect and preserve the marine environment from all sources of pollution and to take effective measures according to the scientific, technical and economic capability of Trinidad and Tobago. These overall objects are in conformity with the undertaking of states under the United Nations Convention on Law of the Sea, which provides the international framework for action to protect and preserve the marine environment.

Shipping (Marine Pollution) Bill
[HON. S. BAKSH]

Tuesday, January 18, 2000

Part II establishes the powers of Trinidad and Tobago in accordance with the United Nations Convention on Law of the Sea and confers rights and obligations consistent with the convention in the main marine jurisdictions established by the convention, that is, Trinidad and Tobago's internal waters, the territorial sea, the exclusive economic zone and the high seas where all coastal states share common obligations.

Part III deals with interventions on the high seas and seeks to give effect to the International Convention Relating to the Intervention on the High Seas in cases of Oil Pollution Casualties Intervention 1969 and the Protocol of 1973. This convention gives limited rights to a coastal state to take preventative measures on the high seas against vessels which are considered to present a grave and imminent danger to coastlines and other coastal interests from oil pollution, as a result of maritime casualties.

Under Part II the administration may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to the Trinidad and Tobago coastline, from pollution or the threat of pollution of the sea by oil or substances other than oil, following upon a maritime casualty or acts related to such a casualty which may reasonably be expected to result in major harmful consequences to the marine environment.

For the purpose of this Part, oil is defined as crude, diesel fuel and lubricating oil. A maritime casualty is defined as a collision of ships or other incident of navigation or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or cargo.

Another important definition is "ship" which means any sea-going vessel of any type whatsoever as well as floating craft with the exception of installations or devices engaged in the exploration of sea-bed or sub-soil resources and Trinidad and Tobago Government's ships and the Defence Force ships on noncommercial voyages and other naval vessels consistent with international law.

As the Bill provides for interventions on the high seas when there is a threat of pollution from substances other than oil, these substances are set forth in the First Schedule permitting facilities to amend this list as the need arises. In all cases care will be taken to establish that the substances are those which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Finally, there is a provision for the settlement of any disputes between Trinidad and Tobago and any state party arising out of any action taken by Trinidad and Tobago in its legitimate concern over an environmental disaster. Where negotiations and conciliation do not realize any settlement, the Second Schedule of the Bill provides for international arbitration.

Part IV of the Bill gives force of law to the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter otherwise known as the London Convention. "Dumping" means any deliberate disposal into the sea of material and substances of any kind, form or description from vessels, aircraft, platforms and other man-made structures as well as the disposal of vessels, aircraft and structures themselves.

The provisions of the interpretation clause also make the clear distinction between what is not dumping, namely: the deliberate disposal of waste or other matters derived from the normal operations of vessel, aircraft, platforms or other man-made structures that is, operational discharges. It further excludes the placement of matter for the purpose other than mere disposal such as scientific and research and the disposal of waste or other matter derived from sea-bed activities such as exploration and exploitation of mineral resources.

This part of the Bill also prohibits incineration at sea where such incineration involves the combustion on board a vessel, platform or other man-made structure at sea of waste for the purpose of their deliberate disposal by thermal destruction. The prohibition is distinguished from the incineration of waste generated during normal vessel operations, covered under Part V.

This part of the Bill applies to the sea and internal waters of Trinidad and Tobago. The definition of "sea" in the London Convention includes all marine waters other than internal waters of states. As such, this part applies both to the territorial sea, the exclusive economic zone and the high seas. Part V also establishes the category of substances which are prohibited or restricted respectively from dumping into the sea and internal waters of Trinidad and Tobago.

Mr. President, clause 28, in particular, speaks of those substances which are highly hazardous and exhibit a high degree of persistence in the marine environment. This clause also establishes the categories of waste which can be dumped at sea or incinerated, subject to the issue by the administration of permits. There are two types of permits: special permits and general permits.

Shipping (Marine Pollution) Bill
[HON. S. BAKSH]

Tuesday, January 18, 2000

11.20 a.m.

Annex II, substances which require special care in dumping or incineration in prescribed amounts are the subject of special permits. These substances are set out in the Third Schedule of the Bill. In issuing a permit, the administration shall determine the applicable disposal method and conditions including, if necessary, whether or not an alternative to sea disposal is the preferred environmental option.

The administration shall be responsible for the granting of general and special permits for controlling the dumping operations through record-keeping and for causing the scientific monitoring of the condition of the sea in collaboration with other state parties or international organizations for the purpose of dumping.

The administration also has the obligation to report periodically on the enforcement of the Convention to the International Maritime Organization (IMO).

Clause 32 provides that under the circumstances of *force majeure* and other emergencies in which dumping is necessary to secure human life at sea, or of the safety of vessels, aircraft, platforms or other man-made structures no permit is required, but the dumping must be reported forthwith to the International Maritime Organization.

Part V gives effect to the International Convention for the Prevention of Pollution from Ships 73/78 MARPOL which is the most important pollution prevention regime for the shipping industry in that it provides the discharge criteria and standards for operational ship waste including oil waste, sewage, garbage and chemical waste.

The objects of Part V are to prevent the deliberate, negligent and accidental release of oil and other harmful substances from ships for the protection and preservation of the marine environment and the conservation of the natural resources therein and to that end, to regulate maritime activities. Part V is the most detailed of the Bill and contains one general and five technical chapters which relate to the technical regulations of MARPOL 73/78 contained respectively in annexes I—V.

Mr. President, lastly, clause 228 repeals Chap. 27:03 of the Oil Pollution of Territorial Waters Act. It is clear that we mean business and we are concerned about the marine environment and are doing something about it. We know that anyone who cares about this country and who understands the importance of our environment to the future of this country will support this Bill. There is no question that it will ensure that we hand over to the next generation a Trinidad

and Tobago which is in better shape than we found it, protected from some of the dangers which we continue to suffer from the ship-generated waste and other pollution activities.

Mr. President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. President, before I begin, I wish all Members of the Chamber the very best for the New Year and the new century. I hope it would be a prosperous one for the country as a whole.

Mr. President, this is a horrific Bill. I think the longest one that I had made an attempt at in the four years that I have been sitting on this Bench. There are over 200 clauses and with the greatest respect, while I can agree with the objectives of the Minister in terms of trying to curb the pollution of the marine environment, I would strongly suggest that this Bill be sent to a Special Select Committee where it would be reviewed on a clause by clause basis and where we would have the opportunity to consult with persons who are directly affected by this Bill. There are ports, ship owners, agents and so forth who may very well want to have a say, and we, as legislators, need to have a clearer view and better understanding as to what is being done.

I know I did a bit of calling around to ask if some of these persons who have a vested interest in this piece of legislation had seen or heard of it and the answer was, no. I think it would be very useful if this Bill was sent to a committee and we solicit the views of the persons involved.

Mr. President, I can fully appreciate that the imperative for the Bill came from certain international conventions and it is not to say that I am necessarily in disagreement with the conventions or with the practice of trying to conform to our international obligations, but I am very concerned at the fact that we are seemingly passing legislation not only here, but all over the place, and really not setting in motion the machinery to effectively monitor and execute the intentions of this legislation. I understand clearly that the “administration” as it is referred to in the Bill will be a division of the ministry, but I heard absolutely nothing from the Minister with respect to the policing that is so urgently required under this Bill. It is a useless piece of paper unless there is some machinery to police it.

Mr. President, we have environmental laws both land and the environment generally but, notwithstanding that, the country as a whole, led by the Government is proceeding helter-skelter to “lick up” what we have. When I

Shipping (Marine Pollution) Bill
[SEN. MONTANO]

Tuesday, January 18, 2000

returned from my studies in 1976, I took a small apartment at the top of Lady Chancellor Hill and every morning I could see a very thin haze over the city that was a little element—I suppose you would call it smog. It was a very thin haze. I did some inquiries at the time and was told that a major element of that was in fact, air and gases coming from the Caroni Swamp. That is what I was told. I do not know how true that is.

I now live in an apartment in Maraval and again, it is on a hill, and I can see some of the haze and the smog which settles over the city and it is astonishingly large. Many afternoons, around 1.00—2.00 p.m. when I am driving from clients' offices in the East at Trincity, there is a pink aura of light over the entire area and that pinkness is because of the pollution. Straight pollution. We have passed laws with respect to the monitoring of vehicles and so forth. Mr. President, thank heavens I have air-conditioning in my car and I can lock off some of the noxious fumes of the buses and the cars spilling the most enormous filthy, black smoke and yet, absolutely nothing is done about it. Policemen are standing at the side of the road and they have to turn away their faces. Nothing is done about it. There are laws for which we recently passed regulation, but nothing is actually being done. We are polluting the air, we have laws, laws have been passed, but nothing is done.

We are now presented with an enormous document and we are talking about the sea. The most I would venture to suggest is that most of the people of our twin-island nation do not go to the sea. Most of them cannot swim, they are land-based. They are basically farmers, or they live in the city and are completely unaware of what is taking place in the sea, but it is being polluted and I am happy for legislation like this, but without the machinery in place to police it, Mr. President, we are just totally wasting time.

Mr. President, you can go to any part of the Gulf of Paria in Trinidad and see shrimping trawlers—all year round, 12 months of the year, not just in season—dredging the ground looking for fish and shrimp. Our fishing grounds have been almost completely destroyed by the trawlers because they have been unregulated. The result is that our fishermen try to cross the border between here and Venezuela because the Venezuelans have not been so reckless with their waters. They tend to fish over there and all kinds of unhappy consequences result from that.

This Bill is intended to deal with the disposal of sewage from ships, but raw sewage is being pumped 24 hours a day into the Bon Accord Lagoon in Tobago. I

have been to Bon Accord Lagoon all my life. When I first went as a child, I thought it was one of the most beautiful places on the face of the planet. I went there as a child, I went as a young man, I have been there in my yacht, but in recent years, it is absolutely impossible. If anybody swims in that area they are taking their lives into their hands, it is so polluted. That sewage is floating around down to Pigeon Point and at Pigeon Point where the water, which used to be a pristine, crystal clear blue, is now green. It is not the crystal, pristine blue we still advertise it as. We have lost it and this administration has tourism as being the future engine of growth for the local economy. It is not the first time that I have talked about Bon Accord Lagoon and Pigeon Point, and yet absolutely nothing has happened, it continues unabated. We bring legislation to talk about ships, but we are doing it to ourselves. I fail to understand the motivation of the Government. Is it so confused by the current events of the day that it does not know what to do with this Bill? Are they so confused?

Mr. President, debate does not only end there. The fact of the matter is if we are going to talk about the pollution of our marine environment, we have to pay very close attention to the run off from the land into the marine environment and we have far too many factories and households pumping chemicals into the drainage system that flow unabated and untreated into the Gulf of Paria. I am advised that the gulf in the bay by the Port of Spain harbour is virtually dead, it has virtually no living marine life other than mosses, and fish cannot be caught in that area, they cannot survive there, and if you do catch fish in that area, it is probably tainted or poisoned.

Are we hearing anything about that? There are factories that are making chemicals for washing clothes, detergents for dishes and that sort of thing, and I happen to know that many of the chemicals that are being used here are highly toxic when released untreated into the environment and yet nothing is being done. It just drains straight into the ground, or more often than not, straight into the Gulf of Paria. What will this Bill really do for us?

In addition, we have hundreds, if not thousands, of small fishing vessels that operate two-stroke engines, the two-stroke outboard engines are our major marine polluter. They drop lead and smoke into the sea and the air causing major problems worldwide.

11.35 a.m.

Mr. President, what is being said about that here? Is anybody on that side even aware of the problem? It does not seem so. I heard the Minister say absolutely nothing about it. What the Minister talked about is sewage. *[Laughter]*

Sen. Mohammed: That is all they know about and they cannot even get it right.

Sen. D. Montano: Mr. President, the Bill is a long and complicated one and the Minister chose not to get into the details on a clause by clause basis and I would not either. But for Members who may not have had the opportunity to read the Bill, I just want to let them know that there are five major sections of the Bill: Chapter 2 deals with oil pollution; Chapter 3 deals with noxious liquids; Chapter 4 deals with packaged dangerous goods in drums and so forth; Chapter 5 deals with sewage and Chapter 6 deals with the treatment of garbage.

Mr. President, of those five areas, the Bill is placing a burden on the state of Trinidad and Tobago, the administration, which is the Ministry of Works and Transport to license vessels; to give them certificates saying that the vessels are certified as being in compliance with the intentions of the Bill, in terms of oil, noxious liquids and sewage. So, in other words, ships must be certified by the administration and the certification must be done by surveyors of the Ministry. It does not say what standard the surveys must have; it does not say what are the qualifications of the surveyors; and we really do not know how or when these things are going to get done.

Mr. President, I have another problem which is this. If we have to certify our ships, vessels or whatever with these three certificates, it must mean then, that all ships coming here must also be certified or should be certified. That is the only logical way of looking at things. It does not actually say that because it is really dealing with Trinidad and Tobago ships.

The question is, if these vessels have to be certified as complying with certain standards to prevent the spillage of oil, sewage or noxious liquids, then vessels coming here must have the same kind of certificate, but nothing in this Bill requires any visiting vessel to present the certificate to any authority saying, "I am certified and, therefore, I want clearance to come into your territorial waters." It does not say anything about that. So all we are dealing with here for the time being is Trinidad and Tobago ships.

So what we are saying is, we must not send our ships outside there unless they are certified, but anybody could come here and we have no particular right. We have a right to board them under the first part of the Bill, but the point is, as they enter the territorial waters, they are not required to say, "Yes we have these certificates." When they hit the customs jetty or whatever the certificates ask for,

and then they say, “Well we have holding tanks for sewage or whatever the case might be.” Nobody is, in fact, policing it. That is the problem I have.

Sen. Daly: What police? We have police? *[Laughter]*

Sen. D. Montano: Mr. President, in the vernacular of Sen. Daly, you know, when I see these things, I think of the words that he uses frequently and that is, “It is a pappyshow.” I do not like to steal his vocabulary but that is “mamaguy”. *[Interruption]* Mr. President, the Minister indicated that the Shipping Registry Bill of 1987 was passed but I was unaware of that. Clause 53 of this Bill requires that all Trinidad and Tobago ships be certified and get an IOPP Certificate. Now, I would like to know how many ships we are talking about. How long is this going to take and, in fact, are all the vessels properly registered under that Act? I really do not know. I just do not know how, in fact, the Minister intends to ensure that there is compliance with this legislation. I see no machinery in place here to enable the terms of this Bill.

Mr. President, I was concerned too, because in all the areas where we have to certify, and that is, particularly, in dealing with the oil and noxious liquid substances clauses, the surveyors of the ministry have to provide a certificate saying that they are certified under IOPP or NLS and that certificate, according to clause 55(2) would state that:

“...the Administration shall fully guarantee the completeness and efficiency of the surveys...”

It guarantees it. Now, the problem with that is that later on in the Bill, when they talked about liability for spillage and so forth, they are talking specifically about oil, not necessarily noxious liquid substances. But under the noxious liquid substances section, which comes under clause 112, it too requires a survey and, again, there is the guarantee from the state. So it seems to me that we are virtually guaranteeing by the issuing of the certificate—the state here is guaranteeing to anybody outside there, that these ships will pass inspection or whatever. So it brings to my mind the question of, if there is a spill for whatever reason, who is liable?

If the state is going to undertake a guarantee, what is the purpose of the guarantee? What is the purpose of using the word “guarantee” in this Bill, unless you are assuming responsibility and liability? What is the purpose of it? I am not a lawyer and I really do not understand but I am a concerned citizen. What are we exposing ourselves to?

Shipping (Marine Pollution) Bill
[SEN. MONTANO]

Tuesday, January 18, 2000

Mr. President, if you look at clause 73 and it talks about the visible traces of oil when you are pumping the bilges and all that sort of thing. If you read clause 73, you will begin to get a view of the impossibility of trying to administer this Bill with the machinery that the Minister has not outlined. What machinery is there, that is going to tell us when the traces of oil are so many parts per million and so forth and it is six miles off shore? What machinery do we have in place to do that sort of thing? What are we doing here? What are we actually doing? There are provisions here that I cannot see that we have any real ability to enforce. Clause 73 states:

“Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Administration shall promptly carry out an investigation of the facts...”

Mr. President, I mean, let us get real. Do we have the facility to do this in any real sense? Half of the Coast Guard boats are still sitting on the land and if they were going to be doing anything, I would certainly like to know that they are up and running in the water and doing something serious. *[Interruption]* I am glad to hear that. We do not have satellites mapping the area of Trinidad and Tobago and looking for this sort of thing. It might be nice, but I do not see that we have that kind of facility.

I just do not know how we are going to do this. I go down the islands regularly and I see all sorts of boats trailing traces of oil. Who is going to do anything about it?

11.45 a.m.

Mr. President, it gets even sillier as we go on. I think it is Chapter 6, clause 158, which talks about the pollution by plastics. Mr. President, plastics! I have a small yacht and I run into plastic bags all the time. My prop gets caught up in the plastic bags regularly and I have to jump off the boat in the middle of the Bocas to get the thing untangled, so I am in total sympathy with it. However, the fact of the matter is that those bags are not coming from ships, they are coming from the beaches because, at every beach that I have been to, people go with their bags, their coolers, their styrotex cups and all kinds of business and, after they have been used, they chuck them into the sea and/or leave them on the beaches.

If you go down to Chaguaramas on any given weekend you will see the amount of plastic being chucked into the water. It is incredible! It is absolutely insane! There is no policing of it. There may be some receptacles in the area of

the beaches to chuck garbage in, but if you see the mess on the beaches it is absolutely unthinkable, untenable, [*Desk thumping*] but there is no policing of it. So we want to tell the ships that they must not do this and the emphasis will be placed on—and the media will pick up—the fact that foreign visiting yachts are pumping sewage into the sea.

According to the Minister's own words, with small boats—and I assume he is talking about yachts 45 feet and under—everything goes overboard. I can tell you, Mr. President, that most yachties are very responsible when it comes to the environment. They take a very serious view of dropping things overboard, but our own citizens just think that there is no tomorrow and just drop things wherever they are. I mean, they just drop them. When the cup is empty, “bap”, it is just dropped on the beach! Mr. President, I have difficulty with it because we have laws against that, but there is no policing of it. So we are spending valuable parliamentary time debating a Bill for which there is apparently—at least there is no articulated mechanism for ensuring that the provisions of the Bill are adhered to in full. That is what I have difficulty with, Mr. President.

I would just point out to you that in Chapter 6 talking about garbage, the maximum fine, in fact, in all these areas, is \$500,000.00. I want you to tell some of the revellers on the beaches that they can get a \$500,000.00 fine for dropping a plastic cup in the sea. Mr. President, it will never happen.

In Chapter 5 talking about the pollution by sewage, clause 141 talks about ships certified for 10 persons and over. My yacht falls within the definition of a ship as defined in this Bill but it has not been certified by anybody for any purpose. So it certainly has not been certified for 10 persons, 12 persons or two persons. It is just a sailing yacht. That is all it is. All the pirogues that operate in Chaguaramas as water taxis or whatever can all take more than 10 persons. Are they now to be certified by some unknown person as carrying more than 10 persons? Those boats have no toilet facilities at all. So what exactly are we talking about here? Who is captured by this Bill and who is not? I, Mr. President, just do not understand it. I tried, I really tried, but I just do not understand it and I do not see how it can really work.

I am not in disagreement with the Bill. I am not in disagreement with the intentions of the Government. Again, let me reiterate, we must do our best to meet our international obligations. [*Desk thumping*] If we have to do that, we have to do it in a serious manner. I have not heard from the Minister exactly how this thing is going to work. Who is going to work it? Who is going to police it? Who is going to issue these certificates? Who is going to inspect and demand that all

Shipping (Marine Pollution) Bill
[SEN. MONTANO]

Tuesday, January 18, 2000

the visiting ships that come here have the certificates that are necessary? Who is going to do that? There is a total silence on this thing. Mr. President, with the greatest of respect, the Bill needs to go to a committee, at least from the first view because of its sheer volume. We need to look at it very closely, very seriously. We need to get the feedback from interested parties.

For instance, Mr. President, there are several clauses in the Bill putting an onus on the ports and the terminals to receive the waste coming off the vessels. I think it is—in fact, they have to receive oil, they have to receive the noxious liquids, they have to receive the garbage and they have to receive sewage. Now, the sewage and the garbage is one thing but the oil and the noxious liquids are an entirely different story because I do not know that any port or anybody in the country really has mechanisms for properly disposing of noxious liquids and oil. If you go to any port, can they take off your sludge and your waste from the bilges and so forth?

Do they really know what to do with it or are they merely going to go into Caroni somewhere, somewhere behind the woods, and just dump it on the ground? Is that what we are going to do, or are they going to take it down to the swamp and dump it in the swamp? This is because, Mr. President, with the greatest of respect, I know that is being done. I know that is what is taking place but nothing has been done here. So what they talked about are receptacles for these things but the next step for the treatment of what has been received has not been dealt with and I think that it is absolutely essential. Furthermore, in some of the areas, and I could point that out later, there is no provision to ensure that the receptacles themselves are maintained in a sufficient standard over a period. In some of them, yes, in some of them, no.

So, Mr. President, the Bill is incomplete and it needs some work. I am willing to spend the time and effort to try to get it right, but it needs to go to a committee and we need to hear the views of the persons who are directly affected by it. Mr. President, I thank you very much. [*Desk thumping*]

Sen. Prof. Julian Kenny: Mr. President, first of all I would like to agree with Sen. Montano when he said that we really ought to have a review of this legislation. I think that, like him, I have read through the entire thing and there are many areas of concern, one of them which I am just going to mention because I think that Sen. Montano is probably the only person in the Senate who can answer the question for me.

Under clause 42 there are many special areas mentioned and I am not quite sure how you pronounce this but if you go down to (d), the Red Sea area, it talks about a rhumb line. I am not quite sure what it means. I mean, I am prepared to allow the Minister to explain this term to me. I will give way if he will explain the meaning of the term to me and then we will proceed. Anyway, I mentioned this because it is a highly technical piece of legislation and here we have legislators who are going to agree to pass this thing and there are, I think, only two members of the Senate who know the meaning of the term. *[Interruption]*. I am sorry, Sen. Marshall is also a sailor so he will know what it means.

Mr. President, I agree that it is an important piece of legislation but I am afraid I am going to differ with the hon. Minister regarding the real purpose of this legislation. The reality is that this is meeting our obligations under an international treaty pure and simple, and this legislation is model legislation which has gone out to all the maritime states by the International Maritime Organization saying, "This is what we would like you to do". We sort of put in our name, Trinidad and Tobago, but essentially it is an IMO thing. The question I raise is, why is this more important than other vital environmental legislation?

The hon. Minister talked about the Government's concern about the environment. I am not attacking this Government or the previous government or any other government, but concern for the environment has never been a serious concern. All sorts of other legislation are brought to Parliament. I would just point out that in my four years since I have been here I had hoped to see some environmental legislation brought, but the only piece of environmental legislation passed was an amendment to the Forests Act which I have pointed out, by writing to the Attorney General about it, is totally meaningless. It cannot be enforced because it is so badly drafted, so ill conceived. So that is the one piece of legislation passed in four years.

I would point out that another piece has taken four years to get at least through the Senate, and this is the amendment to the Environmental Management Act. It has passed through the Senate unanimously and has gone to the other place. I do not know what happened last Friday. Another important piece of legislation, the Planning and Development of Land Bill, which attempts to put some order into what we do with our physical resource, has spent two years in limbo. So that, when it is suggested that this is part of a legislative programme dealing with the environment, I think that we are deceiving ourselves. *[Interruption]* I do not use the term but let us be honest with ourselves.

Shipping (Marine Pollution) Bill
[SEN. PROF. KENNY]

Tuesday, January 18, 2000

It is not that we initiate this kind of legislation, it is not that this is a major concern, it is that we have been told, “Listen, you sign international treaties and you really ought to be doing this”. I point out that we have signed many other international treaties and, indeed, I asked a question two or three years back and I think Sen. Brig. Theodore in fact gave the answer that we had no less than 63 pieces of legislation which were international treaties over the past 20 years. Of these, about 35 required domestic legislation, but this one is one of the few which has got so far.

12.00 noon

For example, the Cites legislation—we signed a treaty in 1984, I think it was, that required Cites domestic legislation, and that has not come to us. So, let us be honest about what our environmental legislative programme is.

Indeed, I was hoping that Sen. Mark would be here to explain to me why this one has come to the top of the heap. There are other far more important pieces—I am not saying that this is not important—but there are other vitally important pieces of legislation that are, in fact, on the Order Paper, and that have been on the Order Paper for two years. For example, the National Parks and other Protected Areas Bill and the Conservation of Wildlife Bill. These are two—

Sen. Gangar: More important than this, Professor?

Sen. Prof. J. Kenny: My point is that we have other pieces of legislation on the Order Paper. They appeared last year; they have lapsed; they have appeared this year and they are way down the priority. Why does something like this come to the top of the list? I suppose it is because we are told—

Sen. Montano: Oil floats.

Sen. Prof. J. Kenny: Oil floats, yes.

Mr. President, I have a number of points to make regarding pollution. I am not repeating exactly what Sen. Montano said but while it is admirable to be dealing with pollution of the marine environment, let us face reality also. Pollution is ultimately land-based and whether it is gases, that is gaseous pollution of the air that drifts out to sea, or whether it is liquid wastes, or whether it is solids, the core problem is the generation of these wastes in human habitation.

Now, to be consistent, we ought to be passing legislation which is going to regulate the generation of these wastes which all find their way into the sea. Now, if oil is spilt from a vessel, or if garbage is dumped from a vessel, how does that differ from oil which goes into the Guapo River or the Poole River? Or, sewage,

which as Sen. Montano has pointed out—and it is not only Bon Accord, there are something like 130 malfunctioning sewage treatment plants in Trinidad and Tobago.

Now, why are we dealing, for example, with one thing when there is probably a much larger contribution from our gross mismanagement of our infrastructure in the country? So, I am not entirely convinced that this is really priority legislation.

One of the things that Sen. Montano raised, which, of course, I have noted here for raising, is this legislation makes certain demands of us. We have to establish at our ports, systems for receiving wastes, whether it is oily wastes, or whether it is garbage, or it goes on in one part and refers to toxic waste.

I have asked the question in the Senate before: Do we have a toxic waste treatment facility in Trinidad and Tobago? And the answer was an unequivocal no. So, here we are making a commitment to receive oily wastes, fluids of one kind or another; sewage; toxic waste; hazardous waste; and yet, as a country, we do not have a facility for dealing with toxic wastes. It is a problem that should concern us all, the priority of our legislation.

While this is admirable and so forth, it has to fit into a broader plan and that is, again, a matter that is also of great concern to me. This is environmental legislation, yet the newly established Ministry of the Environment is not present here. Possibly the Minister is so tied up in administering his Ministry, but he could send a technical officer. Here we have an Environmental Management Authority at a cost of several million dollars a year of borrowed funds and where is the Environmental Management Authority?

It was published in the newspapers that this Bill was going to be debated, so here we have some environmental legislation and we have, what is to me, the prime overseeing Ministry, the Ministry of the Environment, which really ought to be here to make a contribution to place this thing in the context of the broader programme of environmental management which the Government has said it is interested in doing. It feels that our environment is important and it feels we have to protect it and so forth. So, here we have something coming and a major Ministry is not present.

I ask the question of the hon. Minister: Precisely what is our shipping stock in terms of vessels above 400 tonnes? What is our shipping stock? And we have to exclude the military vessels according to the law. What is our shipping stock? *MV Panorama* and there are two tankers, I think, which go to the States and occasionally are held for trafficking.

Sen. Daly: Do not forget the *Romana*.

Sen. Prof. J. Kenny: What is our shipping stock? This would tell us how urgent this legislation is. I really would like to know the numbers of ships which bear Trinidad and Tobago registration which are above 400 tonnes. I am sure that we would get it. I see the hon. Minister of Energy and Energy Industries giving the Minister the answer. Are we dealing with a hundred ships? I rather doubt it.

Later on, for example, Mr. President, I think under clause 71, it refers to a Trinidad and Tobago ship going to Antarctica. I mention this because we are dealing with a comparatively small stock of shipping vessels above 400 tonnes. It really confirms what I suspect this legislation is, which is model legislation. You send it down to the colonies and you tell them, "Pass it".

This is basically what it is to me. This is not priority legislation. Priority legislation, to me, in my one term in the Senate, ought to be the Planning and Development of Land Bill, the National Parks and other Protected Areas Bill, the Conservation of Wildlife Bill, the one dealing with environmental clearance certificates and the one dealing with sensitive areas and sensitive species. This is environmental legislation which would aim, generally, to protect our resource, and by protecting our resource, by behaving properly, we would be protecting our terrestrial environment and our marine environment.

Sen. Montano is a man of the sea and he knows if you go down the islands to Chacachacare, Chacachacare is like a big net that collects the floating garbage of Port of Spain, indeed of Trinidad and Tobago, as well as Venezuela. Because of the oceanography of the Gulf of Paria, we have this beautiful big circular current, it picks up all the garbage and, of course, it exits out the Bocas and the Bocas islands form a beautiful big net which collects the garbage. It is very noble of our young people to go and have these clean-ups of Chacachacare beach. All the young people go down there and collect bags of garbage. One tide and there is another load in there.

I am sure that shipping does generate a problem, but it does not compare with the magnitude of the problem we have in our own way, so, again, I would have preferred to see really important environmental legislation come to us before we leave.

Mr. President, I was a bit worried about the exclusion of military vessels. Now, I know that we do not have a large number of operative naval vessels, but one of the things about military vessels is that they are normally protected against fouling organisms by the use of one of the most obnoxious and toxic of anti-

fouling chemicals—this is tributyl tin—which cannot be used in North America and cannot be used in Europe because of the adverse effects it has on marine life.

Incidentally, we can buy paints in Trinidad and Tobago containing tributyl tin. It can be bought down at Sea Lots by the gallon and naval vessels, because they are constantly moving and travelling through the ocean and they have to keep up their performance, are normally treated with anti-touling paints containing tributyl tin.

I would have thought that if we are really concerned about the marine environment in the Caribbean, at least we could ensure that naval vessels that operate in the areas that belong to nations in the area; like some of the larger American naval vessels that are constantly sailing around the globe, rather than that sort of thing, that any military vessel which spends any length of time in coastal waters, really ought to be brought under this legislation.

I was also rather intrigued by the exclusion from the legislation of devices used for mining the sea bottom. Now, here we have machinery or processes that inevitably will go wrong. It has not happened to us, but look at what happened in the Gulf of Mexico. In spite of the finest engineering, there was major breakdown from a platform which resulted in millions or billions of dollars in damage and oil that went right through the Gulf of Mexico and ended up in the United States.

I would think that here there are near stationary marine structures that are actually punching holes in the bottom of the sea, and we would want to ensure that these come under the legislation.

Mr. President, another concern of mine was the form of the legislation and, of course, I think this is related to the model legislation which we have been sent to fill in. It is a bit unusual to see—to me anyway from what I know of the law—in this Bill, the Parts of it referred to as Chapters and I think that this is not our doing, this I take it is something that we—[*Interruption*] No, there are Parts but they are referred to as Chapters. But it is unusual because we have had many other pieces of legislation which are divided in chapters.

12.15 p.m.

Mr. President, I am not going to go through all of them, but I share the concerns of Sen. Montano that it is really a very large, bulky Bill and there are several queries. In fact, a committee of the Senate meeting with the technical people could very quickly have some of these things answered; what I consider little ambiguities corrected in places where there is clear breach of the use of English. It could be corrected. So, I will just mention some of the things.

Shipping (Marine Pollution) Bill
[SEN. PROF. KENNY]

Tuesday, January 18, 2000

Just starting with clause 4, when one reads this—and I read it over and over—it says:

“The objects of this Act are to protect and preserve the marine environment from all sources of pollution and take effective measures, according to the scientific, technical and economic capabilities of Trinidad and Tobago.”

Effective measures to do what? This is bad English. If one wants to set out one's objectives, I would have thought that one would want to go beyond taking effective measures. We can go through the thing. I will not deal with all of them, but in some parts of the Bill, a ship has one definition and later on, the ship has another definition. This is the sort of thing that I have made notations here where we could sit with the technical people and I am sure that within an hour or two we could straighten out all these minor things.

I have already referred to the problem of the ministries responsible. Clause 12 says:

“Where the administration has...”

I take it to mean the Maritime Services Division of the Ministry which is already existing—

“reasonable grounds for believing that planned activities under its jurisdiction or control may cause substantial pollution of significant...”

Here we have one ministry being given power and yet, the planned activity might be something that requires the concurrence of the Ministry of the Environment and the Environmental Management Authority. It bothers me here that we have two ministries which may have responsibilities under two different laws and one may not know what the other is supposed to be doing. In particular, if one reads the preamble to the Environmental Management Act, it makes it quite clear that the Environmental Management Authority has an overall co-ordinating function. Again, I say this is not clear. These are things that really have to be clarified.

Next to that is clause 13, which is an interpretation clause. Sen. Montano pointed out that that definition there, “any sea-going vessel of any type whatsoever”, is the definition of a ship. It could be my mirror dinghy. *[Laughter]* It could be anything. Yet, later on, we see different definitions of a ship related to different chapters or parts. This really requires a sit-down session with a Senate committee with the technical people. We can go through the 228 clauses, clause by clause, and all the queries can be settled and amendments made.

I was rather disturbed at another definition which is in Part IV, clause 21, which deals with waste. I know the lawyers like to include everything and sometimes a mammal becomes a fish—and sometimes a bivalve mollusc becomes a fish—but it says here that “waste” means materials and substances of any kind, form or description. *[Laughter]*

Mr. President, if one is sailing on a mirror dinghy and one gets some salt in one's face and one wants to get rid of this, one passes it over the side. This is waste according to the definition. The point I am driving at is that I wonder, really, whether we should simply accept model legislation coming from any international organization and not have our own legislation which is related to our stock of ships and our conditions. *[Desk thumping]*

Sen. Montano has already referred to the question of permits. I know it is only enabling in that in clause 28 it says:

“The Administration may issue permits in accordance with this Part in respect of wastes—

(a) loaded in the territory of Trinidad and Tobago;”

This, I find, dubious.

My concern is whether we are in a position technically to issue a permit that would be recognized internationally. I am not suggesting that we do not have the technical capability, but whether we have the resources to acquire the technical capability of doing this sort of thing. I imagine the certificates have to have a particular form which has been given to us, but the machinery has to be there for the administration, the Maritime Services Division, or whatever it is called, to actually examine the ship and satisfy itself that it can deal with the requirements of the law.

There are problems of terminology. Mr. President, I do not know whether the Government is going to go along with this, but I have a long list of things, and it would seem to me, simply going through perhaps another 30 or 40 queries on particular clauses, it would take rather a lot of parliamentary time. If the Government even winks at me and says, “We will have a quick committee meeting some time—like the Tourism Bill—and we will come back with a finished thing in the near future—”

Dr. Mc Kenzie: Don't talk that!

Sen. Daly: Don't talk about that Bill!

Sen. Prof. J. Kenny: I just raised one of them and again I will mention it. It is clause 107 which states:

“There shall be provided at ports and terminals of Trinidad and Tobago, facilities for reception of such residues and mixtures containing noxious liquid substances...”

Mr. President, again, we are unable to deal with the lead which has been dumped at Demerara Road. We are unable to deal with pesticide residues. If we talk to the importers of bulk pesticides, they will tell us that the Solid Waste Management Company would not take it at Forres Park. So what does one do? One burns it! So, we do not have now the wherewithal to deal with toxic wastes, with hazardous wastes, and here we are making a commitment internationally in our law to establish at ports of entry waste facilities which means the new Piarco terminal. I assume that in the planning of that, there was planning consistent with this law, that if somebody came into Piarco and they had—I am not saying radioactive materials, but suppose they had to service a major breakdown of an aircraft engine and they had a lot of burnt lube oil, is there a facility at Piarco? We think of Point Lisas and Port of Spain, but then we have Chaguaramas as well and we have Scarborough.

Sen. Daly: We still have Scarborough. We might not have it later!

Sen. Prof. J. Kenny: The point is that it does bind us when it would appear to me that we are many years away from being able to provide a comprehensive system of dealing with hazardous and toxic chemicals.

Mr. President, I realize what is being done. I think that many people must realize what is being done. I support the general idea of this kind of legislation. I do have some chuckles when I read the legislation and I realize that if the *Panorama* takes a trip to Antarctica—or the *Romana*. [Laughter] The *Romana* is not big enough. Here we have this legislation, but it is not only that, because there are special areas that bind us, including the Middle East and the Red Sea. Does one realize that northeast of Australia, if the *Panorama* headed to the northeast of Australia—[Laughter] Let us be realistic. It is rather like the legislation which we have had sent to us: intellectual property and so forth.

The international organizations tell us to do this and we do it, but let us not delude ourselves into thinking that this is actually going to save our marine environment. Our marine environment will be saved when we address the issues of what we are doing in our terrestrial environment. When we stop dumping

hazardous materials and we get all our sewage treatment plants functioning. When we reforest our hillsides and we properly manage the terrestrial environment, we will, incidentally, manage the receiving environment which is the marine environment.

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

Mr. President: Hon. Senators, we suspend for lunch at this stage and resume at 2 o'clock. The sitting is now suspended until 2.00 p.m.

12.27 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

Sen. Cynthia Alfred: Mr. President, I thank you for the opportunity of speaking on this Bill.

Mr. President, man is man's greatest enemy, as has been evidenced by his untiring efforts to eliminate himself and others like him over time. Man-made inventions are fragile and therefore subject to continuous review: be it upgrading, downgrading, realigning, refurbishing, removing or replacing; but whichever of these may apply, there is consistent revisiting of these inventions. But, the creations of God, of which the sea is one, may be likened to divine infrastructure; strong, immovable, indestructible and must therefore be treated with awe and respect. [*Desk thumping*]

It is in the light of recognizing what is, and that mechanisms must be put in place to protect and preserve these great gifts, that laws, memoranda of understanding and diverse agreements have been made and continue to be made between countries and among nations, notwithstanding what appears to be the prime objective of certain individuals and countries to contravene every law and every agreement established by others.

The United Nations Convention on the Law of the Sea (1982) and, more particularly, MARPOL 1973/1978—which is the International Convention for the Prevention of Pollution from Ships 1973, as modified by the protocol of 1978—brings into focus the Bill which we are debating today: the Shipping (Marine Pollution) Bill.

Each successive government from 1969—1996—the People's National Movement, being the volume leader, so to speak—has contributed significantly to the protection and preservation of marine life. The wider Caribbean is part of this whole process as is, indeed, the international community.

Shipping (Marine Pollution) Bill
[SEN. ALFRED]

Tuesday, January 18, 2000

With respect to the Caribbean, I have a paper in front of me. The top part says *The United Nations*, the caption is *Caribbean Environment Programme Action Plan; The State of Marine Pollution in the Wider Caribbean Region*. The document states that, among other things, there are two elements that are fundamental to the Regional Seas Programme. I would just quote a sentence or two:

“Co-operation with the Governments of the regions and co-ordination of the technical work through the United Nations system.”

Not only in Trinidad and Tobago but, as I mentioned, in the Caribbean and in the wider world. If I may go to a document entitled: *Commonwealth Law Bulletin Volume 19 Number 3 July 1993, Commonwealth Secretariat*, We see here where mention is made of:

“Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels 1977.”

When I looked at that, Mr. President—the question of the safety of fishing vessels—it brought to my mind the many times when, in the controversial waters of Trinidad and Tobago and neighbouring Venezuela, so often our fishing vessels are captured, the members, from what we understand, receiving, perhaps, the worst kind of treatment. It was great foresight on the part of these persons concerned; this convention was signed in Spain. It was out of concern for the treatment received by persons on fishing vessels that this particular convention was put in place. Mr. President, we see that it is not only Trinidad and Tobago but, indeed, the world is concerned about the marine life: the protection of the sea.

We have a very great concern. Apart from this very voluminous document which, in itself, almost defies perusal—and I have to reiterate what was said by Sen. Montano and Sen. Prof. Kenny—one of the main problems of this Government is lack of implementation.

There is a saying, Mr. President, it is not in the Bible, I think it is a prayer that one says quite often. It goes something like this—we are praying to God and there is a part which says—“We have done things that we ought not to have done and we have left undone, things that we ought to have done.” It continues: “and there is no health in us.” I think this could be very well applied to this Government. They have done things which, perhaps, they ought not to have done. [*Desk thumping*] For instance, bringing all these Bills to the Parliament, having them discussed, and then the things that they have left undone, not putting implementation in place. [*Desk thumping*]

Mr. President, what is the Government doing about this particular Bill? Of course, I do agree also that it must go to a select committee because no one in his right mind could expect anyone, or even this honourable Senate, to sit and go through these many clauses with any degree of appreciation of what the Bill really wants to state. Of course, we may also add, if one really peruses it, this is not a shipping bill in the real sense; this is an environmental bill. [*Desk thumping*] This Bill is dealing with pollution and all the effects of pollution.

2.10 p.m.

So Mr. President, you have this great fear, as in other areas where yet another Bill has come to the Parliament and there is great talk about the administration—and one would want some definition of the administration—and where the administration is going to be doing X, Y, or Z. When I look at page 5 of the document, it says in clause 10:

“The Administration shall—

- (a) endeavour as far as practicable, directly or through the Organization, to observe, measure, evaluate and analyze, by recognized scientific methods the risks or effects of pollution of the marine environment.”

Then I put a note, Mr. President: “And then what?” The organization is supposed to observe, measure, evaluate and so forth, but what does it do after that? That is the problem with this Government. It is a question of implementation. Yes, you say all these things, but when it comes down to the practical aspect, this Government falls very sadly and badly. [*Desk thumping*]

Mr. President, we look at the question of the ship, the *Romano*. This is one area where this country, and therefore, I have to say this Government, was really caught napping. Now, one has to conclude that the captain must have had his plans well laid to have taken the course he did. But look, when the boat was accosted in Trinidad and Tobago waters, to all intents and purposes, everything was okay. Then what happened? The boat proceeded into international waters and that is where we found ourselves—or this Government and the whole country—caught in a situation that perhaps could have been avoided. Because, having spoken to them in Trinidad waters the coast guard, or whoever—and I am not knocking the coast guard. I think with the limited resources they have at their disposal they do very well. If there was some follow-up action, particularly bearing in mind that there was a citizen of this country on board, perhaps if the coast guard had followed the *Romana*, then they might have discovered that it did not have any intention of either going to Tobago or remaining in Trinidad and

Shipping (Marine Pollution) Bill
[SEN. ALFRED]

Tuesday, January 18, 2000

Tobago waters. That bears out the point which is, that we have to take things further than they seem and not just take things at face value.

Now, the two areas that concern me most are Part V, page 77 and Part VI. Part V deals with prevention of pollution by sewage and we know that the question of sewage disposal in the sea has raged for some time and will continue to rage. I think it is because as a country and as a government, one is not as vigilant or as stern as one could be.

I know for a fact that in Charlotteville—and I went there maybe three months ago—there were no fewer than 36 yachts outside. I asked the people there “What sort of business do you all get from the yachts?” and they said, “Little or nothing”. More than that, the question was asked, “Have these persons got permission to remain in Tobago waters?” Because we know that when a boat comes into sea they are supposed to check the authorities and do certain things and so forth. From what we understand, many boats go to Charlotteville because they escape the vigilance of the proper authorities. But then the authorities themselves have to be aware and do something about it. Apart from the fact that the country is not getting any sort of substantial income from these vessels, the question of pollution remains. Because the Charlotteville people complain that the raw sewage was coming into Charlotteville. Charlotteville is one of the most beautiful places in Tobago—I mean, all of it is beautiful—therefore, one has to implement, one must implement. You have laws in place, implement them.

Of course, Sen. Montano spoke about the southwestern area of Tobago. This even ties in with this whole proposition—not a decision, I do not think as yet—of putting a 1,000-room hotel on no man’s land; I said proposition. Can you imagine, Mr. President, right now there are problems with the existing hotels with respect to the disposal of their sewage? If you put a 1,000-room hotel, apart from destroying that whole area, the lagoon and so on, there is the question of what is going to be done about the sewage. So, the Government has to take these factors into consideration and not only bring a large document which it has taken hours for us to go through, but even if the document is large, put into it systems that we can relate to, systems that we know will work. I can almost guarantee that after this Bill would have been discussed and most likely passed, the end result will be nothing.

Then, I turn to Part VI, which is on page 87. Part VI deals with prevention of pollution by garbage. You know, Mr. President, just very recently there was this question of a waste-to-energy project that was proposed in Tobago. We spoke on

it already. I would not go over it, but one of the things we do know is that it was proposed that garbage was going to be taken into Tobago. The question was: "Who was going to sanction such a thing?" Just about two days ago I heard on the air that the Government is definitely not in agreement with the waste-to-energy plant that is proposed to be established in Tobago.

One has to draw the line somewhere. One must know that if one is going to put up a proposal, one must check with the relevant authorities first. There is an environmental authority and there are all sorts of authorities that are concerned with the preservation and protection of our environment, the sea included. If persons will put projects in place and do not seek the necessary authority or advice before attempting to do so, then they can only suffer the consequences.

We will remember, not so very long ago, a few years ago when there was a ship coming, I think it was from Europe, which was attempting to deposit toxic waste wherever it could find a dumping ground. This country, I believe, was approached, like other countries and, of course, they were turned down. These are the things that one has to be conscious of. Because, here it is we have two beautiful islands, we have a beautiful country, we have a lovely Caribbean and if we allow others, who have also signed all the various agreements in respect of the pollution of the seas, *et cetera*, to come into our waters and deposit any of their waste, then we would be the ones who would be helping to destroy our very country.

That takes into consideration also this whole thing with the Shiprider Agreement. I am not going into details, but one would remember that with the last Shiprider Agreement that was signed by this country, literally giving the United States the authority to come into Trinidad and Tobago waters and board vessels ostensibly, because of the drug trade and so on and so forth, that could not have redound to our benefit. Because every country, any country worth its salt would look to make agreements that would benefit that particular country. It is therefore, up to the other countries to ensure that whatever they have is properly preserved and protected.

So, the intention behind the document we appreciate, but to put systems in place—no, the document does not say that. The document does not say that it intends to put systems in place. What the document has virtually said is that there are different agreements and so forth and we have many, many schedules and whatnot, but in fact, the document has not really stated how it intends to operate what has been articulated here. Mr. President, if the Minister of Works and Transport who presented the Bill, perhaps in his winding up, will let us know how

Shipping (Marine Pollution) Bill
[SEN. ALFRED]

Tuesday, January 18, 2000

his Government intends to put mechanisms in place, then, they will certainly get our approval.

We think the time has come when any Bill that is presented, this UNC Government must let us know up front whether, in fact, it intends, after the Bill is proclaimed, to put into effect the clauses in the Bill or whether it is just another exercise in futility. When we come here, we expect that when we make contributions, they mean something. Time after time—and that is one of our main grouses on this side—we have these Bills coming before the Parliament and you look forward and you say well yes, this is a good Bill, we will give it all the support it needs. So we give the support. You wait one month, two months, six months, a year, two years, and nothing.

So therefore, perhaps this could be the turning point in the workings of this administration. Let them start to implement, so the people of this country—who ultimately are the ones who will benefit or not benefit from whatever is discussed in the Parliament—will feel satisfied that something is really being done on their behalf, and that when Bills come to the Senate, they are not just used as an exercise, but in fact, there is something for the people of this country.

So I thank you, Mr. President, and I look forward to the Minister's reply—and perhaps he could give us some deadlines—on what steps this Government intends to put in place. Before I say that, I too would like to recommend, because of the enormous volume and many details which are contained here, that this Bill goes to a committee and, of course, after the committee's findings, we will be more satisfied that we are really getting a document that will be of benefit to all.

I thank you, Mr. President. [*Desk thumping*]

Sen. Prof. Kenneth Ramchand: Mr. President, I have a very brief intervention. The purpose of my intervention is to support the call made by Sen. Montano and Sen. Prof. Kenny for this Bill to go to a committee.

It is very clear—the Bill does not seek to hide it—that the Bill was initiated by the International Maritime Organization and that it is virtually a contract to do certain things. We have to report to them, we have to publish reports, we have to carry out various kinds of surveys. It seems to me that it is something in the nature of a contract. This is quite similar to the Shiprider and intellectual property arrangements that we have made. In this case, however, I am not aware that there is a deadline or that there is any threat of a deprivation of rights, privileges, grants or whatever sops are given to you when you surrender your sovereignty.

I mention the word “sovereignty”—I am not going to go into the question of sovereignty except to point out that in general, I believe that these contracts or arrangements we enter into at the instigation and behest of these international bodies continue to erode at the sovereignty of the nation. But most small countries seem to have surrendered. Sovereignty appears to be a lost cause, so I do not want to go on about it. I am just saying that in this instance, there does not seem to be pressure of time upon us and, therefore, we have the opportunity to comply with what is required of us, but in addition to complying to do what we want to do. That is why I feel that this Bill can go to committee, where we make sure we do what is required of us, but we also take time to add certain things to it, to modify it, along some of the following lines.

2.25 p.m.

I think one of the important points made by Sen. Prof. Kenny is that there has to be a relation between legislation concerning the marine environment and legislation concerning what he calls, the terrestrial environment. To me, that is the importance of this occasion or opportunity. It gives us a chance to try to get a proper grasp of the kinds of marine pollution and the sources of pollution that we suffer or endure. If I heard him properly, Sen. Prof. Kenny was saying that the pollution of the sea which takes place in Trinidad and Tobago, arises more from what we do on land and in the rivers than from what ocean-going vessels do to the sea water. Hence the importance of looking at the whole question of pollution, as both to do with the land and the sea, hence the call for us to sit in committee and try to expand this Bill and to make a virtue of the necessities that have been imposed upon us. We need, as I said, a proper grasp of the kinds of marine pollution and the sources of that pollution.

When I was a boy in Cedros, on rainy days I used to stand in the gallery and look out onto a drain. That drain ran through the village, from up the road to down the road, through the floodgate into the sea. And when there were floods, there were pitch-oil tins, old shoes, football, balloon, petrol cans, varnish, dead dog, dead cat; I think it may have inspired a calypso, “where you get this, where you get that, where did you get that superintendent hat. This nightie look like my neighbour own, where did you get that tenor saxophone and so forth.” I feel that calypso was inspired by such a scene. *[Laughter]* But what it tells us is that everybody—when there was flood—used to come and throw away their rubbish in the drain and down the drain it went into the sea. Now, this floodgate also, if it was a season when the tides were very high, then when rain fell you would see the rubbish going down the road so, when the tides were high you would see the

Shipping (Marine Pollution) Bill
[SEN. PROF. RAMCHAND]

Tuesday, January 18, 2000

rubbish coming back up the road. And I know we used to scramble down the road sometimes; you would see a nice football going down and you would run down by the beach to get the football. So, as children, we knew that there was a link between the rubbish and pollution on the land and what is happening in the sea.

Mr. President, what goes into our rivers from the homes, from the floods, from the mountainside and so forth, passes through the land and into the sea. To me, it seems to be as dangerous as—I would not go so far—Sen. Prof. Kenny is a scientist but he could perhaps correct me and say, “yes, I should go far” I would say, at least as important as the pollution from vessels on the sea.

Incidentally, with respect to the drains, those were the days when the imperial government made sure about sanitation. A man used to walk from the top of the village in tall boots with a broom, sweeping the drain every morning and scraping the muck from under the culvert, and people used to know he was coming and they used to throw their rubbish there too, because they knew that this man would scavenge and pick up the stuff. That is what people do to rivers today too, Mr. President. Just to overemphasize the point: We cannot separate terrestrial pollution from marine pollution and you cannot make laws about marine pollution without taking into account all these other factors.

The second item I want to pick up on, is Sen. Montano’s worry about how we are going to monitor; how we are going to put this legislation into effect; how you are going to jump on people’s boat to ask them what kind of facilities they have; how you are going to identify the rubbish that came from their boat; how you can trust the certificates that have been granted; what penalties you are going to impose. Suppose it is a boat belonging to another country which has been certified by that country and they still commit the crime here, what do we do about it? I am not saying that it is impossible, but the legislation does not appear to take into account the need for making such arrangements.

When I look at the definition in clause 3(b), “Administration,” I am puzzled. In the rest of the Bill the “Administration” is going to do all kinds of wonderful things, including report to the organization which sounds like a kind of mafia but it is really the organization we know as the International Maritime Organization. So the administration is going to do everything to make sure this legislation is effective and then report to the “organization.” But the “Administration,” according to the definition, means “the Department responsible for Shipping”—In all my years here, I do not know if we have a department responsible for shipping—“or such person or agency as it may duly delegate.” If we do not have a department with such responsibility, I do not see

any attempt to delegate those responsibilities to anybody, and no promise in the legislation that that is what we are going to do.

So, Mr. President, in adopting this legislation whole scale we have accepted terms, perhaps, that are not appropriate. I think that the question of the administration is very important. Mr. President, page 5 clause 10 states:

The Administration shall—

- (a) endeavour, as far as practicable, directly or through the Organization...”

Is the organization going to fund the administration? Is the organization going to supervise the administration? I continue to quote:

“...to observe, measure, evaluate and analyze, by recognized scientific methods the risks or effects of pollution of the marine environment.”

I do not know of any department that can do that.

This is a highly technical and specialist function, and we need to set up a highly technical and specialist body to deal with this question of pollution. There are other things that the administration is being required to do which reinforces my point. That if there is something called the “administration” or if you want something called the “administration” then you have to set about getting one. That is another reason I think this Bill has to go back to committee.

The first is that you cannot talk marine pollution separate from the question of pollution in all of Trinidad and Tobago: land and sea. And the second is, if this Bill is going to have any impact upon the environment, and if it is going to have any kind of effect upon the consciousness of our people so that there would be prevention of pollution instead of the usual periodic wiping up of what other people have spilled.

2.35 p.m.

Mr. President, I am closing now and affirming that I support any effort to maintain and preserve the environment. I am not opposing this piece of legislation just because I want to oppose, but I feel it is our responsibility, certainly on the Independent Benches, to say what we feel and think, and to put forward our ideas and any suggestions that we feel can improve what the Government is proposing.

Those of us who can speak idealistically about the loss of sovereignty and the surrender to international organizations, you have to grant us the privilege of so doing. But even when we speak out we still say: if you have to sleep with the devil, give him what he wants, but take some of what you want too. I feel that for

Shipping (Marine Pollution) Bill
[SEN. PROF. RAMCHAND]

Tuesday, January 18, 2000

all the reasons I have given we should seize the opportunity to take this piece of legislation into committee and turn it into a piece of our own legislation concerning pollution.

I am very concerned about the so-called "Administration". I leave it to the politicians to work out whether this Bill, at the present time, is coming out of the right ministry; whether, perhaps, it ought to have come out of the Ministry of the Environment and what are the logistics of it. What is the relationship between those ministries and the Environmental Management Authority? I feel if we take the Bill back into committee we would have a chance to work out the administrative arrangement.

I thank you, Mr. President.

The Minister of Energy and Energy Industries (Sen. The Hon. Finbar Gangar): Thank you, Mr. President, I stand here today to lend my unequivocal support to this particular piece of legislation, the Shipping (Marine Pollution) Bill.

When one looks at the title of this particular Bill which states:

"An Act to provide for powers and jurisdiction in relation to pollution of the seas from ships, intervention on the high seas in cases of oil pollution, dumping of wastes at sea, prevention of pollution from ships, preparedness and response for oil pollution emergencies, liability and compensation for pollution damage and matters incidental thereto."

one can get the impression, immediately, of the importance of this particular piece of legislation. I want to say from the outset that I have been intimately involved in the formulation of this particular piece of legislation, together with my distinguished colleague, the Minister of Works and Transport, because of the fact that it has special relevance to the energy sector of Trinidad and Tobago.

In fact, one of the main driving forces behind this particular Bill has been the expansion of the energy sector in the last four years, especially in our marine acreages off the east coast of Trinidad and Tobago. Let me say at the outset how disappointed I was when I heard the contribution of Sen. Prof. Kenny, as a marine biologist, with respect to the fact that this legislation may not be a priority legislation or an important piece of legislation. I also was quite taken aback when I heard a veiled reference by Sen. Prof. Ramchand that this may be some imposition by some foreign agency on Trinidad and Tobago.

Mr. President, over the past decade there has been an increasing appreciation for concerns of the environment, particularly so in light of concerns with respect to holes in the ozone layer, global warming, the decimation of global rain forests and associated

climate change matters. Too much in the past, we have had economic policies which were geared toward maximizing development while paying little regard to the environment. I must say that we in this Government have been very proactive in ensuring that while we develop the resources of the country we are also cognizant of managing and preserving our marine environment.

Mr. President, as you know we have been instrumental towards the end of last year in operationalizing the Environmental Management Commission after four years. Also, we have published the Draft Water Pollution Rules 1999, which are all part of a holistic approach towards managing the environment.

The energy industry in Trinidad and Tobago, as was stated, began on land in the 19th Century, however, it is now driven primarily by offshore exploration and production. The fact remains that there are complex installations both of a temporary and permanent nature, and while the Ministry of Energy and Energy Industries has had a long and distinguished history in regulating the operations of these facilities, this particular Bill provides us with the tools to better do our regulatory function.

The fact is that Trinidad and Tobago is one of the few island states which is actively involved in all aspects of the industry: exploring, producing, refining and marketing petroleum. This industry, as we all know, is our most significant income earner. However, as I have consistently maintained, it is also, by its very nature and inherently so, our biggest contributor to the pollution and degradation of the environment.

Environmental accidents have the potential to upset the entire economy. It can generate negative impacts on state revenues. The Shipping (Marine Pollution) Bill of 1999 marks the adoption of several international marine pollution conventions that will maximize our protection not only in the case of spills, but will enable prevention of some accidents.

This Bill, as we know, focusses on pollution from ships with a definition which includes offshore platforms. That is what is so important in this particular Bill: it contains a definition which includes offshore platforms and this is of critical importance in protecting our marine areas. Mr. President, the offshore petroleum industry in this country dates back from the early 1950s when the Soldado marine area off the southwest peninsula was first brought into commercial production. Since then there have been hundreds of platforms which have been engaged in producing oil and gas over the last 40 years and there have been no mechanisms for controlling the regulation of pollution. That is why this particular Bill is so important.

Shipping (Marine Pollution) Bill
[HON. F. GANGAR]

Tuesday, January 18, 2000

Since the early 1990s we have accelerated our offshore installation programme and we go further and further off the east coast of Trinidad and more and more we have offshore platforms being built there. Before this particular piece of legislation, there had been nothing to effectively deal with pollution arising from these installations. That is why, Prof. Kenny, this legislation is so important; it does not only deal with ships or marine craft which reside in or are registered in Trinidad and Tobago; it also deals significantly with our marine offshore oil and gas producing platforms. This proliferation of platforms is expected to increase more and more as we move into this new century and as we expand our thrust for exploration of oil and gas.

Equally important is that every day it is estimated that 700,000 barrels of crude and products move in and out of our local waters, with more than 1,000 tankers involved in this trade annually. We also have a very high density of oil-related sea traffic in and out of Trinidad and Tobago. That is why there must be every reason for genuine concern for the efficient regulation of vessels engaged in the transportation of hydrocarbons, particularly crude oil.

There are also risks from produce water and other waste dumping. This is now a major issue in the North Sea. We are now seeing the results of the degradation of the North Sea where contaminated water from drilling operations having been dumped for the last 30 to 40 years on the bed of the North Sea now proving to be extremely problematic, and it is costing billions of pounds to reclaim and preserve the environment which has been desecrated due to produce water disposal and waste dumping.

This particular Bill applies to offshore platforms and ships transporting hydrocarbons, produce water and waste dumping from the particular platforms; it is all-embracing. That is why I find it extremely difficult to understand when people say it is not a relevant or a priority piece of legislation. It is certainly an extremely relevant piece of legislation at this particular time. All of us know—and I am sorry that Sen. Daly is not here, I am sure that Prof. Kenny as a marine biologist also knows that the beautiful sea coast of Trinidad and Tobago has been polluted from time to time by oil spills. As recently as December of last year a tanker off the coast of France had a major oil spill causing immense damage to the beaches.

As recent as 1979, two supertankers collided off Trinidad and Tobago spilling some 400,000 barrels of oil in the sea. This was one of the largest oil spills the world has ever seen. I think it is fortunate that no oil came onto our beaches, but

this demonstrates the potential ability of sea transport for hydrocarbon products to create considerable havoc within the marine environment.

As I said, my Ministry had significant input into the drafting of this particular piece of legislation and there are two aspects which are fundamental and extremely relevant to the energy industry in Trinidad and Tobago. Mr. President, if I am permitted to quote, the first one Part V, chapter 2, Prevention of Pollution By Oil; and Part VI, Oil Pollution Preparedness and Response as well as liability and compensation for pollution damage.

The Bill provides for the establishment of an Oil Record Book which must include entries for cleaning of oil fuel tanks, disposal of oil residue, discharge overboard of bilge water, loading of oil cargo, cleaning of cargo tanks including crude oil washing. The Oil Record Book is a legal document which must be maintained as part of the official book.

As I said before, one of the most important and relevant part of this legislation is that this Bill requires drilling rigs and other fixed and floating platforms being used for exploration and production, to be managed in the category of large oil tankers—with no exceptions—and this is possibly the major feature of this particular piece of legislation.

2.50 p.m.

There is also a shipboard oil pollution emergency plan which, to my view, is an essential requirement in the managing of our environment. All vessels operating in our waters and visiting our ports must have a plan outlining the approach and means at its disposal for responding to spills or other polluting incidents.

These inclusions in the Bill, in my view, are critical if our industries continue operating productively and safely within our delicate marine environment. Yes, we have awarded 13 production-sharing contracts in our East Coast over the last four years which is very good. We are now going further and further off the East Coast of Trinidad and closer to Tobago and we have to find more oil and gas, but with that brings an attendant responsibility to protect and preserve our environment and this is the major vehicle, together with other pieces of legislation, for example, our Environmental Management Act and our water pollution rules, which would give teeth and meaning to the protection and preservation of our environment.

Shipping (Marine Pollution) Bill
[HON. F. GANGAR]

Tuesday, January 18, 2000

Another key benefit, Mr. President, is our ability to access a civil liability convention for oil pollution and the international oil pollution fund which is included in the Bill and provides us with the ability to access compensation in the event of certain oil spill accidents.

Mr. President, throughout the history of the Caribbean region, Trinidad and Tobago has been a leader. We must continue this role in environmental management and responsibility. We are, arguably, the only country in the Caribbean which has such a developed offshore hydrocarbon industry. We must continue our role as a leader in environmental management and responsibility. This bears no relevance to following what other people do, we have to be proactive and safeguard our own environment. This has nothing to do with a conditionality for loans from the Inter-American Development Bank or the World Bank; this is protecting our own environment.

The passing of this Bill in Trinidad and Tobago must exert a positive impact on the region by encouraging other Caribbean nations to enact similar pieces of legislation, and having said that, it has no relevance to the Shiprider Agreement. We must continue to commit ourselves to ensuring that activities relating to trade be conducted to realize their full economic potential without compromising or diminishing the legacy of the Caribbean as one of the most habitable places on earth and for future generations, and consistent with our Government's concept of sustainable development.

Maybe now is an opportune time to introduce this particular legislation at the turn of a new century—

Sen. Prof. Kenny: Thank you, Mr. President, and I thank the Minister for giving way. I would like a clarification on a point. This legislation excludes military vessels and for purposes of this legislation we can ignore our coast guard, but what happens if a United States of America military vessel entering Trinidad and Tobago waters under the Shiprider Agreement has an accident, or a United States diesel tanker breaks out in the South/East of Trinidad and Tobago? This legislation does not include military vessels nor pollution from a military vessel which is exactly the same as pollution from a civilian vessel. I just wondered how we as a country would deal with special circumstances.

Sen. The Hon. F. Gangar: Thank you very much, my distinguished colleague. I think that is a very interesting question about which I was also thinking. I do not have the answer at this point in time, but I am sure when my

colleague is winding up, he will certainly provide the answer to that particular problem, but it does pose a very serious question.

Mr. President, as I said, we cannot rely forever on traditional piecemeal approaches with respect to the prevention and control of marine pollution. In every aspect of our lives we have it. Many Senators, including Sen. Alfred, have commented about the pollution in Tobago based on marine pleasure crafts and the problem is all-embracing. It applies to marine pleasure crafts; military vessels; it applies to ships bringing and carrying crude oil and crude oil products; it applies to offshore marine drilling and production platforms; it applies to almost every aspect of pollution or sources of pollution and I think the Minister of Works and Transport must be complimented for bringing such an all-embracing and holistic piece of legislation to this honourable Senate.

Thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, I want to use just for a minute, metaphorically, the issues in the Bill before us. This is the first legislative exercise for us for the new year dealing with pollution and the environment. In extending New Year greetings to you, honourable colleagues here, and to the nation, I express my very great concern about the social environment. I said I am using these terms metaphorically. I am concerned that the social environment continues to be polluted by our neighbours' blood spilled through the barbarous and heinous crimes which flowed over from the polluted ocean of 1999 into the clean, pure coastline of the year 2000.

Mr. President, it is very sad indeed as we have entered the New Year that you would have a killing for a gold chain, or a killing for a parakeet, and my wish for all of us and hope for the New Year is for greater love and peace and genuine concern for community caring and a greater respect for human life. [*Desk thumping*]

Mr. President, concerning the legislation before us, I am delighted to join with all colleagues who identify with the objective and the intention of this piece of legislation relating particularly to oil pollution and the need to protect our marine environment from pollution by ocean-going traffic.

Notwithstanding the six primary international conventions mentioned in the Bill before us which address the problem of marine pollution, I think it is a very good attempt by Government and all of us to find ways and means to make these conventions work for us, the same kind of concern of my colleagues, Sen. Prof. Kenny and Sen. Prof. Ramchand. We are in these conventions and look at them

Shipping (Marine Pollution) Bill
[SEN. REV. TEELUCKSINGH]

Tuesday, January 18, 2000

dating way back in 1973 and 1982, it is time that we make these conventions work for us as a nation. For all these conventions and protocols to which we are signatories—we are there and I would not want to know that we are doing this to please somebody; we are just part of these protocols and conventions—how can we benefit from them, and I am certain this is the concern and the intention of the Bill before us, because as an oil-producing country we are cognizant of the irreparable damage which can be inflicted on the environment by oil pollution both marine and on land.

Mr. President, there are two concerns in this Bill that we need to look at closely. Of course, there are many, this is such a massive document. Both the hon. Minister of Works and Transport, the presenter of the Bill and the Minister of Energy and Energy Industries made frequent references to the Caribbean Sea and I am concerned about this because I do not believe that this Bill can survive as a Trinidad and Tobago initiative. I am very happy that the speakers on the Government side spent so much time talking about the importance of the Caribbean Sea. I would support the suggestion and the proposal that the Bill be referred to a select committee for greater study, and if this is accepted by Government that we should delay serious consideration of this Bill. This is one of the areas I believe should be explored because I really do not believe that the coastal waters of Trinidad and Tobago belong only to Trinidad and Tobago. The Caribbean picture is a very important one, it is most important and reference is made in the Bill to the wider Caribbean region. The Cartagena Convention includes the Gulf of Mexico and the Caribbean Sea. I cannot see how we could talk about Trinidad and Tobago and our territorial waters without considering the wider sea which is the Caribbean Sea. It seems as though the Caribbean Sea belongs to the Caribbean people. It is something unique you know, it is very special; just as the nations around the Mediterranean see the Mediterranean Sea.

Mr. President, the Cartagena Convention is very important, reference is made to it and recently we appointed someone to be Ambassador to Caricom. It is one of the issues we need to examine very carefully. The oceans around this country do not belong to Trinidad and Tobago. They really belong to all the territories in this archipelago and also on the mainland and the isthmus, and in order for this Bill to really benefit Trinidad and Tobago, there has to be a Caricom, a regional, a Caribbean, and a Cartagena effort and that is important. I cannot see how it can survive without that kind of input.

We need a total Caribbean effort to monitor the use of the Caribbean Sea by national and international shipping. That is very important otherwise we are

wasting time. We cannot be doing something like this in Trinidad and Tobago and have the people in Barbados thinking otherwise, or even the people in Martinique who may not belong to Caricom. We belong to the Caribbean region and there is a perennial problem we have concerning the use of the Caribbean Sea and that has to do with the transportation of nuclear waste and other dangerous toxic substances. It is going to happen possibly in the year 2000, it has always been with us. Developed countries and the multinational corporations engaged in that kind of trade really do not care about us unless we begin to invoke the powers of conventions and protocols such as the six mentioned in this document before us.

3.05 p.m.

Mr. President, I am not going to fool myself. I personally believe that we are unable by ourselves—as a little dot in the Caribbean and within the Cartagena Convention—to let this legislation really be effective and let it work for us. So this is one of my concerns. I think that the Caribbean, the Caricom and non-Caricom countries need to look at the use of the Caribbean Sea, which washes our shores as well as theirs, by both national and international shipping vessels.

Mr. President, I am very glad—the second point I want to make has to do with Part VII of the Bill and concerns such clauses as 202, dealing with the International Oil Pollution Compensation Fund. I am very grateful to the honourable Minister of Energy and Energy Industries who touched on that very, very briefly. The question is, if there is such a fund called the International Convention on the Establishment of an International Fund for the Compensation for Oil Pollution Damage, a 1992 protocol, how can we benefit from that, in that oil spills are so common in Trinidad, maybe small ones, but serious for our own environmental concerns here, very serious. How do we invoke? How do we benefit from this particular compensation for oil pollution damage? Since 1992 we have been signatories to this protocol.

Mr. President, it has to do with the oil companies that operate here. A few days ago, I was reading about one of the greatest oil-producing countries in Africa, Nigeria. One of the tribes in Nigeria, their country was laid waste by the explorations of Shell: environment almost totally damaged. Shell has pulled out from that particular part of Nigeria, pulled out completely and had all kinds of reasons about labour problems and so forth but Shell has left. Shell has left a trail of total destruction to the tune where the people in that tribe, in that area, in that community, those villages are saying that compensation will run into about \$13 billion, but Shell will never take part in that—just like all those folks who lived in the Alaska area. You will remember when the Exxon Valdez crashed, the great

Shipping (Marine Pollution) Bill
[SEN. REV. TEELUCKSINGH]

Tuesday, January 18, 2000

tanker, and after all these years, like if there is a total destruction of the environment and, of course, Exxon is saying that is not true. They met their obligations.

Mr. President, the greatest threat to the environment from the petroleum sector in Trinidad and Tobago comes from the oil-exploration companies and we need to look at that; the oil-exploration companies that have all their contracts to explore our minerals in Trinidad and Tobago and so forth. Of course, we get our benefits but what are they leaving behind? Any day they can fold up and leave a trail of destruction and death of environment that we could never repair.

Mr. President, you see this principle of the compensation fund, when we are signing contracts with all those who are doing oil exploration, they should be prime contributors to a fund, a local fund. We need this because we know what can happen. Not one oil-exploration company that ever set up shop in Trinidad and Tobago left a clean slate. They have pulled out. Texaco the whole works; BP and the whole side. Look at the history of oil exploration, nothing can grow. There is no forest there anymore. They just pulled out and left. But while they are here, when we are signing contracts and giving out contracts and privileges to do explorations, do we bind them to something like this? This is a very important idea, very wonderful principle of an oil compensation fund. We need to look at that. We need to include that in our clauses. It is not only exploring for resources, but there has to be a responsibility: a responsibility to the land and a responsibility to the people of Trinidad and Tobago. I wonder how much of that is included when we sit around the bargaining table and they show interest in exploration.

Mr. President, I wish when the hon. Minister is replying he would respond to the concerns of Part VII and clause 202 in the Bill, about this International Oil Compensation Fund. How can we access the privileges of the protocol of 1992? Is this available? Secondly, what are the concerns of the Government to make companies engaged in oil exploration, in the whole energy business, more responsible, especially when it comes to environmental damage and so forth?

I support very much the rationale for the Bill and if, perhaps, it has to go to a joint select committee, I believe this might be a good way out in us looking very carefully at the various concerns and interests in a Bill that is of primary importance. I would want to say that this Bill is of supreme importance. I have no hesitation at all in reading this, maybe as the first Bill for the new year, although

we have so many other problems in Trinidad and Tobago. It is very important that we look at this Bill and consider it as a very serious document.

Mr. President, I thank you very much, Sir.

Sen. Mahadeo Jagmohan: Mr. President, I thank you very much for the opportunity to say a few words on this terrific Bill before the Senate. Before I do so, I crave your indulgence Sir, for a minute in extending New Year greetings to all Members of this Senate, staff, security and visitors here. It is my hope that the year 2000 would bring a great deal of health and prosperity to everyone, and that the good Lord would bless us all with wisdom, knowledge and understanding so that we would do good deeds all the time for ourselves and for the entire nation. I thank you, Sir. [*Desk thumping*]

Mr. President, it is the business of every citizen in this country and, indeed, in any country to protect the resources of the country, either in which we live permanently or temporarily. The entire Caribbean Islands and Caribbean Sea is an area of great beauty that is priceless. People from around the world embrace the opportunity to breathe the pure air and enjoy the natural atmosphere in Trinidad and Tobago and in the Caribbean Islands. We should be proud of this. The richness of the Caribbean is slowly being made known to the entire world.

Mr. President, this Bill before us which comprises 228 articles and 18 schedules is enormous. It is a very important and interesting Bill. Perhaps it has come at a good time, but I join the others in stating—and I do so with a great deal of interest in the matter—that this Bill should be committed to a select committee of this Senate, for a thorough study so that when the finished product is laid for all, there would be no doubt that it would be clear and straightforward.

3.15 p.m.

As the Bill is at the moment, there is tremendous difficulty in following some of what is stated therein. Our friend, the Minister of Works and Transport, might have given his instructions and legal people, together with other technocrats, may have put the Bill together. However, with those objectives in mind, the Bill is still replete with what we may call inaccuracies and errors. I think Sen. Rev. Teelucksingh alluded to it in a way, that the Caribbean territories should be made to deal with this matter simultaneously with Trinidad and Tobago with consideration for North and South America as well as parts of Latin America also doing something similar to what we are attempting to do here today.

Shipping (Marine Pollution) Bill
[SEN. JAGMOHAN]

Tuesday, January 18, 2000

I hope that the hon. Minister will look at it in that light because very definitely some clauses of the Bill should be modified and some clauses should be struck off in the sense that, it is so cumbersome when you take the whole Bill together, it might be difficult to have it working in the present form if passed. Soon I will tell you, Sir, how I feel about certain clauses of the Bill. The hon. Minister of Energy and Energy Industries gave us what I would say was a reasonable dissertation about the value and operations of the oil industry as they impact on the environment. I would have thought that he would tell us about some of the mechanisms that the oil industry, *per se*, has in place to combat oil spills and to take care of the environment *vis-a-vis* the operations of the oil industry, but I suppose he will tell us about that on another occasion.

This Bill, Mr. President, the Shipping (Marine Pollution) Bill, tells us something too. I would have thought for a moment that such a Bill would have come from the Ministry of the Environment but then the target is ships and shipping with the focus on transporting certain kinds of materials and also transporting crude oil either from this place to another place or from another place to this place and consideration was given to that. I say, Mr. President, in any country where the land, the surface of that country, is not kept clean, neat looking and pure in its atmosphere, we would have difficulty. In small countries like ours where the beaches are now polluted by garbage, it is creating immense difficulty but I am putting it mildly.

No ship emits or deposits the amount of garbage that results in Trinidad and Tobago. It is we, the citizens of Trinidad and Tobago, who create that difficulty, which simply means that we either consciously or unconsciously are destroying ourselves. That is why in this country, up to this moment, people of a particular religion refer to the soil of Trinidad and Tobago as “Mother Earth” and they refer to the sea also as “Mother”. They do this because of the value they attach to the earth and sea. They give a sense of sacred value to the earth and the ocean around them and we should pay attention to some aspects of that. Mr. President, perhaps the Minister of Energy and Energy Industries can advise the Minister of Works and Transport when he is responding.

My distinguished friend, Sen. Danny Montano, during his contribution referred to policing many aspects of the Bill if made law. Well, I would leave out the word, “policing”, for the time being and ask, what arrangements are there on the drilling platforms in the ocean to monitor effective operation with a view to controlling pollution; pollution meaning escape of crude oil and gases either by carelessness or by genuine accident? Is there anyone appointed by the central

Government, by the state, to monitor? That is a question to which we could get some answer.

Then I became curious when the Minister of Energy and Energy Industries said that they are drilling oil near to Tobago and some of the platforms are very close to Tobago. I was wondering whether Tobagonians would not become very excited about that prospect of oil in Tobago. Some indication was given by the Minister of Energy and Energy Industries and everyone knows that the Chief Secretary of Tobago is very passionate about the resources of Tobago and Tobago's entitlement in terms of monetary compensation and other matters.

Someone asked a while ago, Mr. President, why are military ships or vessels omitted from this Bill? Whatever the thinking, whether it is Trinidad and Tobago military vessels or military vessels of other nations that come here for military exercises, none should be precluded from the laws related to control of pollution of the ocean around Trinidad and Tobago; none whatsoever. I am wondering, if you preclude the military, then in a subtle way you give them licence to be careless about certain things and pollution can take place [*Desk thumping*] unabated with no one having the authority to interfere. That is how I see it. Surely the interest of the environment should be the interest of every single citizen in the country. Therefore, the intention of such a Bill should be exposed to the public for consultation.

I want to ask a question and I wish I could get the attention of the two Ministers here now. Did BP/Amoco have an interest in this? Did they submit memoranda on this? What did they say? Do we have any way of knowing? Did our own oil company, Petrotrin, have any input or was it just the staff at the Ministry and the various legal departments who formulated the Bill? I do not know. We want to know. The larger question, Mr. President, is the procedure adopted by vessels in disposing of the waste on board. Those that come to all areas of Trinidad, those who go to the areas controlled by the oil field or they go to Point Lisas or they come to our main ports, what mechanism is in place? This Bill should have said something somehow with respect to that.

One could talk on this Bill for a long, long time and say many things but would it be necessary? We should, in my humble view, proceed to have this Bill committed to a select committee but this is an exercise that has to be agreed upon. With your kind permission, Mr. President, I want to refer to clause 32 (2) on page 14 which says:

Shipping (Marine Pollution) Bill
[SEN. JAGMOHAN]

Tuesday, January 18, 2000

“Such dumping or incineration at sea as is referred to in subsection (1) shall be conducted in such manner so as to minimize the likelihood of damage to human or marine life.”

Again, who will monitor this? How are we to know whether the procedure outlined here will be observed? It is a big question. Who will—all right, I will use the word—police this exercise? Who will monitor it? Who will oversee it? If there is somebody to oversee and monitor, will that person be someone trained in a particular discipline, or will the administration, meaning the Ministry of Works and Transport, send somebody who might have good intentions but not the necessary technical skill to do the monitoring?

I also, Mr. President, refer to clause 152 which again says:

“Sewage reception facilities shall be periodically inspected by the Administration or a person designated by the Administration for such purpose, to ensure that the requirements of this Chapter are complied with.”

This is a frightening clause, Mr. President. You may ask me why, Sir. The administration in this case would be the Ministry of Works and Transport. The Ministry of Works and Transport has at its disposal thousands and thousands of honest workers, but will the Permanent Secretary or the Chief Technical Officer from the Ministry of Works and Transport take a highways labourer and send him to inspect during this exercise? Why did it not say, “trained personnel” or “an engineer in environmental management” or some such thing? Nothing was said and I am scared about this.

I know how some of these things go and how they operate and something has to be done about that. My good friend, the Minister of Works and Transport—the fact that a Member of the Parliament raised it—has a moral obligation to address it and give us some assurance that it is some kind of trained person such as an environmental engineer, an environmental technician, a public health inspector IV or somebody like that. A person? A person could be a “fella” cutlassing grass by the road.

Sen. Mohammed: Or it could be the Minister.

Sen. M. Jagmohan: No, the Minister cannot be that person. Mr. President, I go a little further. I might have some difficulties and I might be taking some time of the Senate in going through certain areas but there is a clause, the Minister knows this and other people here know it as well, which talks about certain records. I wish I could have put my hand on it right now. It says that entries made

on certain books of certain ships should be preserved for three years. I am wondering why three years. Why not five years or ten years? I urge the Minister, Mr. President, to say that records indicating the operations of ships or vessels at sea should be preserved, as the churches preserve their marriage registers and their other kinds of records, for up to 100 years. By doing that, it would be easy to trace any abnormality or wrongdoing on the part of any body at all.

3.30 p.m.

Another clause here refers, Mr. President, to the master of the vessel. So much has to be done; it must be done by the master of the vessel. It did not say the master of the vessel or one delegated by him, or in the absence of the master, who else should do it. So, if the master is not there, no one does it. It could mean that, too.

Mr. President, my colleagues have indicated that we support the intent of the Bill. We would like to see everything done to protect our environment and the environment belongs to every single citizen—I have said that before—just as the natural resources of a country belong to all the citizens. For example, the benefits to be derived from the oil industry do not belong to members of the governing party; they belong to every single citizen of the country.

I am about to end, but I just observe, Sir. I saw some strange happenings in the Senate today, with a concentration of the press earlier on and I was confused. I could not understand what that meant, but when these things happen, they do concern us all.

With those words, Mr. President, I thank you very much. [*Laughter*]

Sen. Philip Marshall: Mr. President, I would like to make a fairly short but, hopefully, pragmatic contribution and if the hon. Minister who presented the Bill could possibly, in reply, guide us as to whether certain issues have been addressed.

Like all the previous contributions, I say that this is a very, very significant and important Bill. We have all said so. It is significant and important because it is a process that must support our energy industry; it is significant and important because it is a process that must lead to the sustainable maintenance of our eco-systems and tourism industry.

Shipping (Marine Pollution) Bill
[SEN. MARSHALL]

Tuesday, January 18, 2000

Sen. Alfred made a very telling point in her contribution when she talked about implementation. My contribution is really going to deal with: Why do we have this gap between knowledge—we know what to do—and implementation? I am going to be pretty brief but I believe that the reason would simply be lack of funds and resources.

This is such an important Bill, I hope we do not fall into the trap of passing the legislation but, again, having no money to implement any very important aspect of this legislation. I would like the hon. Minister, therefore, in his response, to assure me that this is not going to be a vaporous discussion where we have, and can do nothing, to implement these issues.

On the question of putting this Bill to a committee, I have a bit of concern because someone made the very important point that our stakeholders and other governments in the Caribbean involve our countries in South America. If you think about it logically, with the whole aspect of globalization and standards and protocol, this Bill of 220 pages—I know for a fact because I have done some research on the Bill—includes 120 pages which were an exact copy, as it should be, of agreed protocols. We cannot make the mistake of attempting to tailor this Bill and getting other governments to, in fact, accept a customized version of the Bill.

Therefore, I am saying that we have to be very careful that we do not attempt to change the wording, the paragraph and sequence of established protocols so that the objective of getting acceptance from Caribbean or other regional stakeholders will be facilitated by having a standard document. It is not that we must not, with respect to our own environmental management legislation, put in or ensure that we have a tie-in to various aspects of the Bill.

So, on the question of the Bill going to committee, I believe it must be more from a question of: Do we have the administrative support? Does this legislation tie into the environmental management legislation? Does it tie into the port's state control legislation which we have?

I will be ending my contribution very shortly and, again, on the basis of a question ask the Minister specifically, if we could refer to page 94, clause 175(2), hon. Minister, because this is a matter of concern to me.

My understanding is that in the whole issue of preparedness for marine disaster or pollution that, basically, Trinidad and Tobago is separated into four quadrants. I believe that the north-west quadrant may be under the control or

guardianship of the Point Lisas Port. I believe Petrotrin handles the south-western quadrant. I believe the Galeota Port and quadrant south-east is handled by BP/Amoco. I am not sure who handles the north-east quadrant and I would like the Minister, especially, to reply to me as to whether we do have these pollution emergency plans and whether it would not be an idea—if this idea has not been already exercised—that we have, maybe a once a year mock exercise, whereby we put in place how we would react from these four guardians and these quadrants, to a severe oil spill.

I end by saying that we should not delay on this Bill for this one reason even if we have to tailor it in the end. This whole question of if we were not part of this protection, this fund, this oil consolidation—I do not have the right words, but I think you all know what I am talking about. An oil spill can do untold damage to our economy. We cannot afford to be uninsured, so I am making the contribution from an economic perspective, from a risk management perspective and, if the Minister could also tell me—because I could not quite understand in the Bill and I am about to end my contribution—if a vessel is from a registered flag of a country which is not part of this fund, are we covered? In other words, are we covered if a vessel from a country that is not a signatory to this fund, whether the general fund, in fact, would help Trinidad and Tobago do the necessary repair as a result of a major pollution disaster?

I end with that contribution. I agree that we should have input from all stakeholders, but let us not come up with such a customized version of the Bill in this global economy that it will not be easily accepted by countries outside our jurisdiction. Let us not delay from the risk protection of what an oil spill may do to us.

I understand—this is Sen. Jagmohan's contribution—and remember that many of these procedures are already in place. Vessels come; they discharge their garbage; and my understanding is that the Solid Waste Management Company Limited does a very good job in not only taking the garbage off the vessels but, actually, documenting where in Trinidad and Tobago they have buried that solid waste. Remember, this could be happening without proper policing. Garbage is taken off the vessels that do not keep a record of where, on land, they have disposed of that garbage. In fact, they may throw it back into the sea.

So, let us immediately ensure that not only do we have the record that the garbage was disposed of off the vessels, because when they reach a port in the United States, they must have a certificate from Trinidad and Tobago that we have certified that their garbage has been disposed of. We have to ensure that

Shipping (Marine Pollution) Bill
[SEN. MARSHALL]

Tuesday, January 18, 2000

garbage is disposed of in a proper, controlled environment and hence the comment made by Sen. Prof. Kenny of the need that this really is a whole environmental issue to be dealt with.

Money, I believe, is going to be our problem. However, I suggest to the Minister of Finance—because, again, I have done some research—that our port charges in Trinidad and Tobago are very low; I think among the lowest in the region. We could look at the feasibility of maybe, a 15 per cent increase in our charges, so that we implement and are able to finance the additional expenditure to undertake these various issues.

There is no reason why, when yachts and pleasure craft tie up, they should not put moorings out for them; make them pay moorings fees and let them have discharges into barges of their various effluents.

With that contribution, I support the intention of the Bill. Let us make sure we implement it. Thank you, Mr. President.

Sen. Joan Yuille-Williams: Mr. President, I would be even shorter than Sen. Marshall. Before I do, let me, having been out for the latter part of the year, take your greetings at the beginning of the sitting as very personal and say thank you for your very warm welcome. I do wish you the best for 2000.

Mr. President, under normal circumstances, one would want to say that this Bill is genuine in nature and I say so, too, even now. But we might have heard comments this afternoon which say that there might be particular reasons why the Bill has been brought before the Parliament. So much has been said on the Bill and so many things have been said on this Bench and on the Independent Benches with which I agree, there are, therefore, two comments which I would make.

Even though this might be a contract, as Sen. Prof. Ramchand has said, or it might be at the urging of some international organization, I am wondering why, sometimes in these bills, even though we have put into the bills what the international agency expects, why can we not make them a little more relevant to our needs? It amazes me that sometimes, even though the international organizations say these are some of the clauses they would like included, I feel we should look at our needs and put those into the Bill. I do not see any reason that should prevent us from getting the necessary funding if that is the reason we have this.

Therefore, when I looked at this Bill, the Shipping (Marine Pollution) Bill, even the name was a bit misrepresented to me. I saw the words (Marine Pollution)

in brackets and I asked myself: Would this cover, in its entirety, our needs for marine pollution? The name is also a bit misleading. To me, it narrows the areas which we would like to cover in a bill such as this. In fact, we want a bill which would cover in its entirety, pollution in the waters of Trinidad and Tobago, if we can do that. This limits it.

In fact, when I asked someone—and I want to agree with some of the others about the stakeholders—about this particular Bill on the telephone, the person asked who was piloting the Bill I had to go back to my Order Paper to see it was the Minister of Works and Transport. The person felt it was a bit strange but when I said forget marine pollution, it is entitled the Shipping (Marine Pollution) Bill, then the person related it to the Minister of Works and Transport.

I heard the Minister of Energy and Energy Industries talking about taking a holistic approach to things, and it seems that this is the way this had been done. We did not get that holistic approach.

I would have looked for a bill on marine pollution which would cover all areas, not only the areas which deal with vessels, aircraft, platforms and man-made structures at sea; if there were man-made structures on land that also contributed to marine pollution, I would say that this Bill should also deal with that. That is why I am saying that this can be a little narrow.

3.45 p.m.

One would agree with the Minister of Energy and Energy Industries when we talk about the oil tankers releasing bilge and anything else into Trinidad and Tobago waters while they are anchored here and causing pollution. We agree with that. One would agree with the pleasure craft which we have mooring down in Chaguaramas, Tobago, and all our other waters, and disposing of sewage, garbage and all of that, and agree with the heavy fines which will be placed on those. I agree entirely with that.

I also want to say that there are other areas, other than those in this Bill, which pollute the environment. I am talking about man-made structures on land. I am looking at those plants and industrial estates and businesses along the coast. They also emit a lot of effluent into the water and we do not know what is there. This Bill does not take that into account at all. You only have to ask a fisherman in Couva or San Fernando and he can tell you about the pollution coming from those plants. That is why I am saying that this is a bit narrow for us, because the man-made structures that we have put there also contribute to the marine pollution. We need to look at that very closely.

Shipping (Marine Pollution) Bill
[SEN. YUILLE-WILLIAMS]

Tuesday, January 18, 2000

In fact, I want to suggest that just as the Bill tells us that we should do random testing on that which is given off by the ships, we need to also do some random testing to the waste processes given off by these man-made structures on land that enter into the gulf and even what comes into the gulf from the rivers. We need to do that type of sampling of the waste products. That is serious. That is important to us. That is the reason why, when we do not put relevant concerns in a Bill, we get comments that this Bill was not intended for us, it was intended to do certain things. That is what I was trying to say very briefly. Make it more relevant to what we have here!

When I look at the first schedule on page 135, “noxious substances”; how could they tell that some of those substances are not emitted into the gulf from these man-made structures on land? These structures may also be emitting those chemicals and I think we need to test it. It is very important to us that we go into that section and see, because I am not a scientist, but all these chemical processes are very complex, and at the end of the day they could be a possible cause of the pollution in our waters and could be much more of a cause of the pollution in the waters than this Bill is pointing to. I think we need to look at that. I consider it to be quite serious. I think this Bill should take that into account.

When Sen. Prof. Kenny talked about the naval ships, those are the little areas of irrelevance to us and that would also be a part of what I am talking about, making the Bill much more relevant. The Minister of Energy and Energy Industries, I know, talked about the platforms, but in my short research on this Bill, I am hearing that the companies are now investigating, getting rid of oily waste in wells and some of those wastes like drill cuttings, oil muds and other pollutants which he knows very well.

I understand that drillers want to get rid of this waste now by digging very deep wells in the marine environment and trying to dispose of the waste through those wells. I think it is something we should investigate because it is almost secretive to me that one would scarcely know what is happening. Before this comes on board, we should look to see if this can happen. I know it will harm our aquatic life, but there is a real possibility, because one has to ask oneself, “How do these firms get rid of this type of waste?”

This, I am telling you, will not just come from me. I am no driller. I am only saying it in the Parliament that they investigate it because companies intend to do it. If we are talking about polluting the environment and the disposal of waste, as this Bill has to say, we have to see how the waste that comes off the drilling platform is gotten rid of. Now that the Government has brought this Bill to this

place with no control over drillers, to me it is a perfect way for them to dig very deep into the marine environment and pump the waste down there. That is their way of getting rid of it, and I am saying it is really going to disturb our aquatic life.

In fact, a little paper from California, which I read, alluded to the fact that the government was looking into it and making laws against it. I do not know what they are going to do. I do not know what the alternative is—I am no driller—but we need to look at this.

Sen. Gangar: I thank the hon. Senator for giving way in the midst of a very excellent contribution. I think it is very timely what she is saying. [*Desk thumping*] There are just a couple things on a matter of clarification. With respect to man-made structures on land, the Government has published the Proposed Water Pollution Rules, 1999 which would govern some of the areas which the Senator is talking about.

In 1998 we published the *Trinidad and Tobago Standard for the Specification for the Effluent from Industrial Processes Discharged into the Environment* and, of course, the last point the hon. Senator made which shows she is very up-to-date in technology is that certainly in the North Sea in the United Kingdom, where I visited in September, the UK Government has instituted mandatory specifications where the drilling fluids produced from drilling operations in the North Sea must be contained and brought on land, treated and then disposed. It can no longer be discharged into the North Sea. Those are the new rules which are going to be introduced this year. I thank the hon. Senator for her indulgence in allowing me to give that clarification.

Sen. J. Yuille-Williams: Thank you very much for your response. Yes, you have called the several areas where these things are, and you are the one who raised the whole question of this holistic approach. It could have been somewhere in this document where we could have seen it, because they are very much related and here we are going to be looking into different documents to find a solution to this problem. I am glad it has been taken care of.

I agree with some of the Members of the Parliament this afternoon that we need to have a look at this in a committee, and some of the stakeholders, at this point, who should be aware of this document, seem to say that they are not aware of it. This is a document which would affect their operations. One of the ways in which they could get people to buy in and do what they say is to let them know from well beforehand that this is in the legislation. If a number of operators are not aware of the Bill, it will be a disadvantage. Of course, we could charge them for doing the wrong thing, but we would prefer them to do the correct thing so that we do not have to charge them afterward when the waters are already contaminated.

Shipping (Marine Pollution) Bill
[SEN. YUILLE-WILLIAMS]

Tuesday, January 18, 2000

Sen. Prof. Kenny said there was an urgency to get this on board because he saw the importance of it, but I think any delay would even strengthen this. I would go on the side of delaying for a short while to get the stakeholders and to get other relevant parts into this document, which are not here.

I also want to make a comment on the nuclear waste. I do not know whether it should come into this at all, but it is not just for fear. I am hoping that something is said quite definitely here. We should take up some position about nuclear waste in our waters, because clearly, I would hope that nuclear waste would not be allowed in our waters. There is no position taken here, but I just felt I should raise it. I know that Sen. Rev. Teelucksingh talked about it, but my limited knowledge and my own initial fears tell me that I would prefer that the nuclear waste is not allowed in our waters.

Very briefly, even though this Bill deals with dumping of waste and some of the other things highlighted today, I felt we could have expanded a little more. In fact, I thought of putting in this title “the prevention of marine pollution in the territorial waters of Trinidad and Tobago”. I felt if we had said it that way, we would have been able very easily to capture all the structures, all the areas, land and sea, that will impact on marine pollution in our country.

These are the comments I would like to make, Mr. President. I do hope that the Government will listen to the cries of those who say, “Let us go a little closer to the Bill”. I hope they will allow the stakeholders even a brief comment on it and, probably, if they delay it for a short while and it is even in committee stage, people will be able to get to a stakeholder to put in something. Anything which will strengthen this Bill, because we have something out here which a number of countries do not have: our beautiful waters, and we should do anything to keep it nice and clean. I just enjoyed the weekend in Tobago and we should do nothing at all to pollute the waters which surround the beautiful islands.

Thank you very much, Mr. President.

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. President, I did not realize when I presented the Shipping (Marine Pollution) Bill, 1999 this morning that we would still be here at this time, but I realize that the great conviction with which all the speakers on the opposite side—both on the Opposition Bench and Independent Senators—in fact, in every single Member's contribution, although they expressed their support for the fine efforts in terms of bringing this very important Bill to this stage and continue to make some very important points, we should be able to consult much more and be able to get the

widest possible participation on what could well be one of the most important environmental Bills as it pertains to shipping.

I find it very necessary to take the advice and to seek further consultation in terms of establishing a special select committee of this House.

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. S. Baksh: Mr. President, in light of the concerns raised and expressed by Members of this Senate, I seek the leave of the Senate to have the Bill referred to a special select committee of the Senate to be considered and reported on.

4.00 p.m.

Question put and agreed to.

Mr. President: Hon. Senators, I have appointed, the following Members to serve on a special select committee to consider and report on the following Bill by February 09, 2000: “An Act to provide for powers and jurisdiction in relation to pollution of the seas from ships, intervention on the high seas in cases of oil pollution, dumping of wastes at sea, prevention of pollution from ships, preparedness and response for oil pollution emergencies, liability and compensation for pollution damage and matters incidental thereto.”

| | | |
|------------------------|---|----------|
| Mr. Sadiq Baksh | - | Chairman |
| Mr. Finbar Gangar | - | Member |
| Ms. Carol Cuffy Dowlat | - | Member |
| Mr. Danny Montano | - | Member |
| Prof. Julian Kenny | - | Member |

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

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.04 p.m.