

Leave of Absence

Tuesday, February 20, 2001

SENATE

Tuesday, February 20, 2001

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, leave of absence from sittings of the Senate has been approved for Sen. Martin G. Daly for the period February 19 to March 6, 2001; Sen. Prof. Kenneth Ramchand for the period February 14 to March 9, 2001; and Sen. Joan Yuille-Williams and Sen. Glenda Morean for today's sitting.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MR. KENNETH AYOUNG-CHEE

WHEREAS Senator Martin G. Daly 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, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KENNETH AYOUNG-CHEE, to be temporarily a member of the Senate, with effect from 19th February, 2001 and continuing during the absence from Trinidad and Tobago of the said Senator Martin G. Daly.

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 16th
day of February, 2001.”

Senators' Appointment

Tuesday, February 20, 2001

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson
President.

TO: MRS. LAILA SULTAN-KHAN VALERE

WHEREAS Senator Professor Kenneth Ramchand is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, LAILA SULTAN-KHAN VALERE, to be temporarily a member of the Senate, with effect from 20th February, 2001 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Kenneth Ramchand.

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 16th day of February, 2001.”

“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. MICHAEL ALS

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, MICHAEL ALS, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of February, 2001.”

Senators' Appointment

Tuesday, February 20, 2001

“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. ROY AUGUSTUS

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, ROY AUGUSTUS, a Senator.

Given under my Hand and the Seal of the President of
the Republic of Trinidad and Tobago at the Office
of the President, St. Ann's, this 14th day of
February, 2001.”

“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: DR. JENNIFER JONES-KERNAHAN

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, JENNIFER JONES-KERNAHAN, a Senator.

Given under my Hand and the Seal of the President of the
Republic of Trinidad and Tobago at the Office of the
President, St. Ann's, this 14th day of February, 2001.”

Senators' Appointment

Tuesday, February 20, 2001

“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: DR. VINCENT LASSE

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, VINCENT LASSE, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of February, 2001.”

“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: DR. ROODAL MOONILAL

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, ROODAL MOONILAL, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of February, 2001.”

Senators' Appointment

Tuesday, February 20, 2001

“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: DR. DAPHNE PHILLIPS-GASKIN

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, DAPHNE PHILLIPS-GASKIN, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of February, 2001.”

“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. STANLEY RYAN

In exercise of the power vested in me by paragraph (a) of subsection (2) of section 40 of the Constitution of the Republic of Trinidad and Tobago, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you, STANLEY RYAN, a Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14th day of February, 2001.”

Oath of Allegiance

Tuesday, February 20, 2001

OATH OF ALLEGIANCE

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

Kenneth Ayoung-Chee, Laila Sultan-Khan Valere, Michael Als, Roy Augustus, Dr. Jennifer Jones-Kernahan, Dr. Vincent Lasse, Dr. Roodal Moonilal, Dr. Daphne Phillips-Gaskin and Stanley Ryan.

Mr. President: Congratulations to the new Members and welcome to the Senate. I advise the Senate that permission was granted for photographs to be taken on this very special occasion.

1.45 p.m.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1988. [*The Minister of Finance (Sen. The Hon. Gerald Yetming)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1989. [*Sen. The Hon. G. Yetming*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1990. [*Sen. The Hon. G. Yetming*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1991. [*Sen. The Hon. G. Yetming*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1992. [*Sen. The Hon. G. Yetming*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the National Housing Authority for the year ended December 31, 1993. [*Sen. The Hon. G. Yetming*]

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, first of all, let me congratulate, on behalf of the Government, the Senators who were appointed here this afternoon.

Mr. President, I now seek leave of the Senate to deal with “Bills Second Reading” at this stage of the proceedings.

Agreed to.

PLANT PROTECTION (AMDT.) BILL

Order for second reading read.

The Minister of Food Production and Marine Resources (Hon. Trevor Sudama): Mr. President, before I move the second reading of this Bill, let me take this opportunity to congratulate Members of the Senate—this is their first sitting in which I am present—and particularly those who have recently been sworn in. It is my earnest hope that they do have a very productive and meaningful participation in the work of this Senate.

Mr. President, I wish to move that a Bill to amend the Plant Protection Act, 1975, be now read a second time.

May I say at the outset, that I have not come to this august Chamber to entertain, although this is the carnival season, nor am I going to say anything very exciting, though there are those who come to this Chamber for entertainment, and particularly the reporter from the *Trinidad Guardian* who, presumably, has no other source of entertainment, but this Chamber.

This is a very important piece of legislation that we are trying to get passage of in this Senate. The basic objectives of this Bill are to provide rules and mechanisms to prevent the introduction of plant diseases and plant pests and indeed, where they do exist, that there ought to be a regime in place to control their spread and eventually to eradicate these pests and diseases.

In order to achieve this objective, the Bill seeks to improve and strengthen the board of management of the Plant Quarantine Service. And may I say, the Plant Quarantine Service is our first line of defence with respect to the prevention of the introduction of plant pests and diseases. Over the years there has been an increase in the workload of this service simply because there has been an increase in the trade in raw and unprocessed plant material. This is, of course, in the wake of liberalization of world trade which we have been witnessing for the last decade, and which increases the risk of the introduction of plant pests and their spread.

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Just to give an indication of the kind of workload that is undertaken by the Plant Quarantine Service: For the last year the service carried out 21,305 inspections including 1,147 seizures of items. They did 2,011 export inspections for which phytosanitary certificates were issued, and they also issued 862 import permits.

The Plant Quarantine Service has the option of calling upon the support of the Research Division of the Ministry of Food Production and Marine Resources to provide technical and professional services. As you know, the Research Division is staffed by plant pathologists, entomologists, soil scientists, seed technologists and other such technical personnel.

The threat of plant disease importation and spread is ever present and, therefore, there is the great need for vigilance, and there is the urgent need to provide arrangements and mechanisms for detection and control of the infestation. May I remind Senators that in recent times we have had the experience of the mealy bug infestation which caused significant damage to plant life and, indeed, had the effect of destabilizing trade between ourselves and many countries within and outside the region, and there was a great deal of devastation of crops. Of course, more recently, we have had the presence of the Citrus Black Fly which the Ministry is attempting to bring under control. I may add that the mealy bug infestation has, by and large, been brought under control after the expenditure of a lot of resources, financial and otherwise. We are today grappling with the Citrus Black Fly which is affecting very adversely, the citrus plantations in Trinidad and Tobago. The idea is, if we were able to control at the point of entry, we would prevent the importation of these plant pests and diseases. That is a far more cost-effective remedy than, of course, curing and rehabilitating after the infestation has spread.

1.55 p.m.

This Bill seeks to update 1975 legislation and focuses on six main issues. I will not go into the details of this: it is all before us here. It is a simple bill, but some of the issues that we need to address relate to the amplification of the definitions to increase their scope and comprehensiveness. For example, the definition of “land” is amplified and so is the definition of “notifiable disease”. What is indeed a “nursery”? Who is an “occupier” of land and who is an “owner”

of land? What is a “pest” and “plant pest”? By making these definitions more elaborate, we will be in a position to capture a wider area for purposes of control and protection.

Another issue which is addressed in the Bill, is the question of the sanctions and penalties that must be imposed for importation without a permit. Here we have increased the sanctions because it is felt that the levels of penalty which were appropriate in 1975 are no longer appropriate today to deter the illegal importation of plants and the diseases they may carry with them. This deterrent is important because there is the potential for great devastation of our plant life in Trinidad and Tobago if we are not able to control importation.

The Bill, in trying to bring this question of control of plant disease and its importation under greater scrutiny, gives greater power to the Minister to prohibit or control cultivation of any plant to prevent the spread of plant disease or pests. This includes provision for seizure, disposal of restricted articles and the power to make regulations for inspection and treatment of plants. The Bill seeks to empower the Ministry to take more appropriate and effective action with respect to the control of diseases.

In order to meet the objectives I have been enumerating, the Bill seeks to give greater authority to Plant Quarantine Officers to board ships or aircraft and to enter land and declare it under quarantine. It is only by swift action on the part of quarantine officers that they can control the spread of plant pests.

We have introduced the power to declare a pest or disease notifiable. This is the authority of the Minister, after due consultation with his technical people and in doing so, to place certain obligations on the owner and the occupier of the land. I emphasize here that this is not something new; this is a provision in other legislation. If we are to deal with this problem, there must be some shared responsibility on the part of the cultivators, landowners, as well as on the part of Government and its officers.

The sanctions we are incorporating in the Bill, to be imposed on people who fail to notify the relevant authorities of a notifiable pest or disease are only applied if the owner or persons employed by him does not take reasonable steps to discover the occurrence of the notifiable disease. If, however, reasonable steps were taken to identify the disease and to notify of its occurrence, then the penalty incorporated in the Bill will not apply.

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I may mention at this point that the Ministry has been engaged in a great deal of farmer training exercises to let farmers know about crop production methods and also about an integrated pest management, so that they will be aware of the incidence of diseases.

Over the last year, the period 1999 to September 2000, the Extension Training and Information Services Division conducted 229 training courses in which 2,602 persons participated. In all these courses—I am referring now to courses relating to plant propagation and cultivation—the principles of integrated pest management were taught as a separate module. It is not as if we are doing something in the dark. These training sessions have been organized to better equip farmers to identify and report on plant pests.

I must also emphasize that the farmer is in very close contact with the extension officer. If he notices something irregular, then it is his obligation to call on the extension officer to identify the nature of his observation and, if it is a notifiable pest disease, then the extension officer ought to assist in that exercise.

So, it is not as if we are imposing an obligation on the farmer which is unreasonable. It will be impossible for all of our extension officers to be at all of the farms all of the time to ascertain whether there are pests and diseases. We must place this obligation on the farmer, the occupier and the persons employed by him.

Mr. President, those are some of the major features of the Bill. It is by no means a revolutionary bill. It is not a panacea for all the problems related to plant disease prevention and control, but we are moving in the direction of more effective control. The Bill will strengthen the authority of the Plant Quarantine Service and its officers and will provide the flexibility for the Ministry to act more decisively in dealing with any plant or pest disease menace that may be in the offing.

2.05 p.m.

Mr. President, as I said, if we do not exercise vigilance then we could probably end up in a situation where significant sections of our cultivation would be wiped out; where there will be untold loss and damage to farmers; where our reputation as a producer and cultivator of agricultural plant material will be in jeopardy; where we will face restrictions on export of raw and unprocessed plant material to the various destinations to which we do, in fact, now export. I am happy to report that, as a result of the work we have done on the mealy bug

situation, a number of markets—which were closed to us: Barbados, Antigua and other regional markets—have now been reopened and we are now in a position to begin again, the export of certain types of commodities.

Mr. President, I do not think this Bill should detain us too much in this Chamber and before I move, let me just make an apology for the amendments which have been circulated. There are some amendments which have been circulated rather recently, that is today, and there are those which were passed at committee stage in the Lower House, but which we could not get incorporated into the body of the Bill and those amendments are there as well. These are, however, minor amendments to the main text of the Bill and I hope that I will get the full support of Members of this Senate in having them passed.

Thank you very much, Mr. President.

Question proposed.

Mr. President: Let me, first of all, apologize to you, Sen. Prof. Kenny and also to hon. Senators, for the inconvenience caused by the chair that almost crashed.

Sen. Prof. Julian Kenny: It is just my fate that Sen. Daly is away today, perhaps the conspiracy was to do him in. Anyway, thank you, Mr. President.

This is a very unusual situation where we have so many Members of the Senate being sworn in on one occasion. I obviously wish to welcome them, but I hope I am forgiven if I do not welcome them individually. I am always very interested in hearing the oath of office and meeting our responsibilities to the people of Trinidad and Tobago. Of course the Senate is an organ of the State; it is not part of an Executive and in the Senate the responsibility of every Senator is to join the debate. As I welcome you, Senators, I look forward to the contributions from every Member of the Senate.

Mr. President, permit me to make another observation. Last week when we met, the Government side was in the minority and today as we meet, the Opposition side is minus a couple and there is a lesson in this for us. I pointed out earlier that the work of the Senate continues and I am joining this particular debate because I have an interest in the subject. This debate could have gone on the very first day of the Senate in the absence of half the Senators on the Government Benches.

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[SEN. PROF. KENNY]

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Mr. President, I hope I am not confused with Sen. Prof. Spence, because I am really speaking in his area. I tried to speak with him to get some clarification but was unable to contact him because he is now a busy farmer. There are certain problems I had with trying to find out more about the legislation. If you look at the law books and you look up Plant Protection in the index, you will see: "Look under List of Omissions" because it is not in the law books, and when you look in the list of omissions on page two, you will find that there is no page two, so it took several hours of my time to try to track this legislation down.

In fact, in the 1975 legislation, my understanding is that it was never assented to and that the regulations made under this Plant Protection Act of 1975 were really made under the old Plant Protection Ordinance. The notice that came out in 1977 attempted to update the practice of plant quarantine. There was some uncertainty, in my mind, as to whether it is valid because there is nowhere that I can find a proclaimed 1975 Act under which these regulations are made. This is only, in a sense, an administrative or an academic thing. The problem is when we are debating something we really ought to know all the laws involved and I am joining this debate without having seen the actual 1975 Act, in any form.

Mr. President, legislation of this kind—without repeating too much of what the Minister said—is extremely important. We run the risk—in all countries that are isolated, that have barriers to entry—of moving organisms that may cause us a lot of distress and enormous cost to correct the problem. It is timely that we are dealing with this issue and, in fact, I have been critical over the past of the Government's legislative programme regarding environmental legislation. I think, with some justification, that there is very little in force and this, to me, suggests that while it may be interpreted as plant protection, it is, in fact, a piece of sound environmental legislation. It is not only protecting our agriculture but there are some pests or plants that may come in and may have an adverse effect on our agriculture that may spread into our natural systems—into our plantation forests—so it is a very important piece of legislation.

I would also suggest that—I know that we have to get this legislation through—perhaps the Government might consider the broader issue, not only of plant protection but also of regulating the importation into the country of exotic species, not just plant species. There is a thriving trade in exotic animals and I shudder to think of what might happen, in our country, if a really disagreeable animal is released, and in quantities sufficient to breed.

Sen. Rev. Teelucksingh has made impassioned pleas before about these shows that we have where we see cobras and all sorts of horrible creatures. I know that there are, on the law books, certain things that attempt to regulate the importation of animals. In fact, there is one piece of legislation that regulates the importation of certain fish species into this country.

2.15 p.m.

If the fish species go into the wild, they may cause serious problems. We go to these shows at Long Circular Mall and what do we see? We see piranha from South America on show. My suggestion is that while I know we are dealing with plant protection, perhaps as part of the developing legislation, with regard to our environment, consideration might be given to trying to get together a sort of omnibus legislation which would meet the requirements of this problem and, at the same time, give responses to other problems.

Mr. President, I have read the Bill and I have certain comments about it. I have drafted an amendment because I take the point that we have to update the legislation. At several places in the Bill, the draft is wanting. Why write 50 words when with 20 or 30 one could say exactly the same thing, much more clearly? I will speak to that in a minute.

With regard to the actual Bill, I would just like to make a few points about the interpretation clause. If we go down to the definition of “pest”, this is a rather strange definition of a pest. At the term “vegetable organism”, why not “plant organism”? Might this not confuse a reader? A vegetable is something one eats. Why not simply a plant organism?

The offending one in the interpretation clause is a plant pest. Here, I propose an amendment, but this is quite a strange way of describing a pest. I do not think I want to bore the Senate by going into all of it, but to mix up any stage of an insect, nematode, mite or protozoan or other invertebrate, we are mixing different taxonomic levels. We ought to have some order in the legislation. I notice that has come, not from our international conventions, but from the regulations which were passed under the old ordinance. The international definition of the term “pest” is in a few words. The term “pest” means:

“Any form of plant or animal life or any pathogenic agent injurious or potentially injurious to plant products.”

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There are few words, and here we have signed this treaty. Why are we rewriting definitions of things that are so aptly put in an international treaty and one which over 100 countries in the world have signed? Why do we need to inject it into our domestic legislation? Hence my reason for suggesting the amendment.

Mr. President, as a layperson, I sometimes wonder at the lawyers and legal draftsmen, with apologies to all lawyers present. I have read things where the definition of a fish includes a mammal. It offends reason. I think that we are a sovereign nation. We do not have to hang on to all the old legislative drafts that have come to us from colonial days. We have all sorts of talent in this country and one does not have to be a legal draftsman to take the intent of the Ministry and to convert it into a language which everybody understands. A fish can never be a mammal, or a mammal, a fish.

I know that legislation wants to include all these things to make it clear so that if one has to, one will appear before a court. I think that the other definitions taken from the international convention are perfectly adequate. Every lawyer ought to be able to understand that, because I am sure that every fifth form student—if there are any fifth formers in the gallery today—will understand the definition in the international convention. I am suggesting then that we perhaps make a couple amendments there.

Again, I have a problem with clause 6 when we go down to 4A(b). I agree that the Minister may make an order as he thinks—I would prefer the words “deems necessary”. If we go down to (b), it says:

“prohibit, control or restrict the transportation of any plant, or of any plant appearing to be infested with any pest or disease, or of any thing whatever,”

This “any thing whatever” could be a person who could be wearing shoes that are contaminated with foot and mouth disease. [*Laughter*] If one goes to Cuba, because they are so terrified of having an infection from anywhere of foot and mouth disease, when one gets off the plane, one walks through a sponge bath with a disinfecting agent which destroys the organisms. We get soggy feet. What does this mean, “or of any thing whatever”?

A container, a person, a person's baggage, clothes and a computer could all be vectors. I suggest that, perhaps, I do not know how to amend it. I know what is

intended. One is transporting plant material or infected material. I think this is what one is doing, but when one throws in words like this, I wonder exactly what it means.

The final comment I would make is that I would go a little further in clause 6 and propose adding a (j) after (i). I think we ought to give our Ministers of Government powers of prohibition. A person may import something and it may come into Piarco or the port and the person may, in fact, go through quarantine and may declare the thing, but, Mr. President, it is a fact of life that people trade in organisms and they will go through customs. If there is a prohibition on named things, then one can come down with the heaviest penalties one wants for someone who wilfully tries to smuggle things.

I know there are other remedies under customs, but I venture to suggest that there are organisms, both plants and animal, which the Minister on the advice of his technical people may wish to prohibit from entry. So, when a person applies for a licence, and says he wants to import species "X", the Minister may say no. Right now, all that is necessary is getting a phytosanitary certificate in accordance with the international convention and the World Trade Organization rules. I think that these things are meant to be international protection against moving organisms willy-nilly around the world.

My point is that in addition to the conventions where a person may apply to import a plant or a plant product or something derived from a plant, and do it legitimately, all that is required is a phytosanitary certificate from the country from which he is travelling. It may not be in our interest to have that particular plant in this country, and I am just suggesting that we extend the powers of the Minister to prohibition and he will issue an order prohibiting this plant and other organisms.

Thank you, Mr. President.

Sen. Rennie Dumas: Mr. President, the intention of the Bill is the prevention and control of plant pests and diseases and to modernize the 1975 Act. There can be no argument with the intention. We certainly join with the intention, but it is correct to say that we have to disagree with the Minister that the matters, as he has outlined them in the Bill, should not detain us.

Sen. Prof. Kenny has pointed out some problems with the definitions and we would not belabour them, but contrary to the view that we should just accept what

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is there and move on, we will have some problems with that. As the goodly Senator said, if one is going to use the Bill and use the law to define behaviour, they also define the way one wants people to think about things. Therefore, what they are placing on record as law should be clear in exactly what it says. It is unfortunate that a number of them in the Bill could do with a revisit.

Secondly, Mr. President, if one is going to write law, then there are a number of things to do which I think are not done in the Bill. Included in that is the question we are approaching where we have been living in an age which is very fast moving in a technological sense. The question of a genetic code and what it is, and how we use the information, the new knowledge we have, in terms of genetic behaviour and genetic expectations and genetic manipulation is upon us. We live in very small and very fragile marine ecosystems which give us very small biospheres that are not widely separated in two very small islands. Therefore, anything that is let loose on us for which we are unprepared could be very dangerous to our agricultural systems, but also to the very lives that we have and which we lead; even our own continuing existence as individuals or as communities.

Therefore, it is with great distress that in reading the Bill, the authority is there but very little responsibility comes up in the Bill. Where is the provision for an adequate information architecture that tells us what is there and what is flowing around us, what we are likely to encounter? Nobody is given the responsibility. No group, no authority, no individual—not even the Minister himself—has the responsibility to be aware and to continue to make the nation informed as to what we should be guarding against at any given time even at all substantive times.

Thirdly, there is no responsibility given for continued adequate engineering at our various ports of entry. There is no responsibility in this Bill or in the Act, therefore, if we are going to improve it, we should do that. What is the responsibility taken or given for making sure that our quarantine officers can, in fact, perform their duties? What is the responsibility taken for ensuring that even simple things, like incinerators, are at our points of entry, various ports and airports? I see none. Are there administrative divisions that we should take into account?

2.30 p.m.

In recent times, we have seen legislation that purports to divide the national administrative responsibility, where, at a national level, we expect the Minister to

do something, we expect the Cabinet to do something. Then there is confusion as to whether that little authority in the Tobago House of Assembly (THA) is extended to, includes, or is differentiated from, the responsibility given to the Minister or any other national authority. We need to be sure that that is what we want to do. I see no mention of the responsibilities, although I know that the quarantine responsibilities are divided between the Ministry of Agriculture, Land and Marine Resources and the THA, according to the Tobago House of Assembly Act as enacted by this Government.

The Minister mentioned the mealy bug plague, if you want to call it that. I remember that in the mealy bug plague we had to make a dividing line between Trinidad and Tobago; a line made up of men, material, time, money and also administrative authority, to ensure that the mealy bug plague which was plaguing Trinidad did not invade and take over Tobago. A battle of over two years and more than \$1 million was spent on ensuring that the activity on the port was controlled so that that jurisdiction was not crossed by unwanted plants and plant infection.

We come in 2001 to deal with a bill like this, and there is no recognition of that physical divide, no recognition of that biospheric divide, and, therefore, no provision for administrative divide and no provision for a trigger to separate these two biospheric landscapes. Therefore, we ask that the Minister and his team look again at the legislation and take it back, because although we are barring ourselves and setting up a barrier between Trinidad and Tobago, the rest of the Caribbean and the world, we may have to consider whether we should not make provision for triggers for activity passing between the two islands.

I place that firmly in the context that we are on a drive to ensure that these two islands have differential tourism plans, and they, in fact, exist as two different tourism destinations. If we take that into account and the 117 square miles, the frequency of which airplanes, yachts, pleasure boats, whatever come in to our shores, the fact that there are only two ports in Tobago, no speedboats to chase anybody, no coastguard presence, one quarantine officer—maybe two or three who are junior to that quarantine officer—yet we are attempting to protect much more than 117 miles of sea coast from entry—we know that we are actively marketing access to this island; we are actively marketing access to the other island and we are asking people to come in from wherever they are coming into these two fragile biospheres. What do we do?

The gentleman who has come in from this big river in South America; who has come across with the clothes that he had on two days before; who has come

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into Charlotteville or Maracas bay and enters directly into our forests, because there is no requirement on him to declare that he may have come from an area which we consider dangerous, and he has come into contact with things that we consider dangerous, and he walks in. That rain forest which we have sought to protect for over 300 years is exposed. It is endangered. The livelihood of hundreds of people is put in danger and the physical safety of thousands of people is put in danger. The Bill does nothing about this. Manpower resources in this area are non-existent, unmanaged. There is no responsibility for human resource management, no vigilance and surveillance capability in this area.

What do we do when we do have a suspicion? Is there any provision for detaining the dangerous boat from leaving Tobago to come to Trinidad or vice versa? The quarantine officer, as far as I know, has no provision for execution of that power. He has no provision for further investigation so, therefore, the detention is not possible, except you do something else. What about compensation for suspicion that is not confirmed?

If, in fact, we detain people, activity and material because we have a suspicion, we have to be very careful when we say that the person whose goods we seize or whose vessel we detain, has no provision for compensation. I feel that we have to walk carefully there. Then there is the concept of safeguarding. What are the agricultural materials that we can put in a safe place? Where is this safe place? What is the safe place? Who is to execute the safe place? That is not in the Bill.

There is a provision that maybe we need to look at also. What is the report that the quarantine officer is expected to file, after he has made a visit either to land or to a boat? What is the type of report? What is the legal status of that report? What is the administrative status of that report? I am suggesting to the Minister, Mr. President, that these inadequacies are glaring.

In seeking to receive and to ensure that we receive taxes, we put on vessels a responsibility to notify us when they come to our ports. Maybe a suggestion that the Minister may want to consider is that a shipping inspection report, which has some legal status, or a form, could be a requirement when a quarantine officer goes to a boat. A property inspection report that has similar legal status and a prescribed form may be required when such an officer visits the land. Maybe we should have something that tells us what he does and does not do. The ship agents do not tell us anything. There is no requirement even for agents, captains or officers of vessels to tell us when they have come in or where they are coming

from in the context of plant protection. We need to ensure that we do not leave ourselves exposed one more time.

Then there is a divergence in the concept of what is a port. The humble little seaside village of Charlotteville has been declared a port among a number of large ports like Point Lisas and all the other big ones. This is a Cabinet notice from the *Gazette*, but we have a curious situation in which the Minister of Food Production and Marine Resources says that for the purposes of plant protection, Charlotteville is not a port.

The contradiction is that you allow the world to come into Charlotteville, but you are saying, "I take no action", or "I recognize no possibility of action in Charlotteville", so agri-items and items of interest to quarantine cannot come; but that is not real. The reality is that you have had large firms moving thousands of tons of material through Charlotteville and, in fact, bringing material which should be of interest to quarantine, but the quarantine officer cannot go where he is not supposed to and where he is not recognized. Where is the lumber?

What about passenger activity? Is there any regulation or potential for regulation of passenger activity according to where they have come from, which yacht they have come in with, what type of garbage they bring, whether there is any connection between any of these things and our potential for infection and infestation?

We encourage people: we say that this is an ecotourism haven. It means that the person who is on tour is coming from an ecotourism area, meaning that he is coming from soil in contact with plant and animal matter, and coming into our area, encouraged by us, without our taking any protective action at all. So that person is coming to the rain forest; that person is coming to the swamp or the gardens, as we are told. That person is engaging in birdwatching; that person is a trail tracker, so mud, burrs, sticks, the last walking stick he or she cuts somewhere, the agricultural material he or she has, the yacht loaded with we know not what pathogen, coming down the road, island and port hopping, ecosphere hopping, coming to us, and we are not sure whether we have the protection.

The Bill can only be supported and voted for on the grounds that it has to be seen as an inadequate measure, and just a stage towards the other tasks that we have. I want to suggest, Mr. President, that the context, concept and reality of the

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Tobago House of Assembly being an authority, being a governmental agency, being a government in Trinidad and Tobago, has to be faced.

I remember some of the hands that voted for that Bill. If the intention is that the THA would be real, in the context of governments in Trinidad and Tobago, then we have to ask ourselves: What is the trigger that we are going to put in place? The mockery will not be allowed to last for long, because the biosphere does not accept that man's hand is his master. The biosphere makes, follows and changes the rules of life, as the biosphere will.

Thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Mr. President, I too would like to join with you and all our colleagues in extending a most cordial welcome to the new Senators, and to wish them a most successful term in this honourable Senate. I hope, Sir, that waiting would have prepared them to better appreciate the complexities and also the delicate nature of politics in Trinidad and Tobago. May their commitment be towards a positive contribution through the challenging times for our new nation.

They are reminded, as we are, that the society we serve at this time is awakened every morning to be greeted by many things that can only destabilize the nation's communal structure. I pray, Mr. President, that all of us at this level and in the other place and everywhere in the society will unite in order to have the peace and harmony that a young nation as Trinidad and Tobago needs.

2.45 p.m.

If ever we have to say, as in our National Anthem, "God bless our nation", this is the time we need the hand of God to lead this nation, and every one of us needs to see us as a people and a nation under God, otherwise we are in serious trouble.

Mr. President, I rise to support the Bill and any attempt to develop, promote and protect agriculture, and particularly in line with the concern of the Bill, the flora of Trinidad and Tobago which deserves the support of this honourable Senate. Our agricultural farms, our food-growing areas, our horticultural gardens and our ornamentals in parks, forests, swamps and open spaces must be protected from pests and diseases.

I thank the hon. Minister for referring to a few. He mentioned the mealy bug, we remember that it caused a crisis, and the black fly, that infestation that has threatened—and I do not think we would have such a successful citrus crop in the

year 2001 because of the problems of the black fly last year. This year we have a problem because of what happened last year.

Mr. President, you will remember—it is the first time I saw the name tristeza—this virus which threatened the citrus industry, and already this plant virus has destroyed vast citrus plantations in Central America and also in neighbouring Jamaica. The froghopper was mentioned, the sugar cane problem we had in 1999.

Mr. President, I want to add to some of the comments of previous speakers particularly with reference to all the subsections in clause 6 dealing with implementation. I am concerned about implementation. We make laws, and my colleague, Sen. Prof. Kenny, cannot even find the law on which this was built. If this is an amendment of something, where is the something? It was not proclaimed, what has been happening in our country? I am concerned about the implementation of this Bill, the clauses here have been passed in the other place, so very soon it will be made law.

Mr. President, I want to add a few suggestions and one is that the Ministry of Food Production and Marine Resources promote a national plant protection awareness programme. We need a programme like that in our schools. Could one walk into our schools and see beautiful posters advising our children to have a sense of pride and patriotism? Do we see that anywhere? They are the custodians. Sen. Prof. Kenny spoke about the environment; is there an attachment with the environment, or are they dead laws laws: in books? People are the ones who must protect the environment and the flora. What about the slash and burn? If we do not have that sense of patriotism, we are going to destroy the same thing you are trying to protect here. We might be the pests.

I want to add to Sen. Dumas' observations about the airport and the seaports, of those who travel abroad, and the desirability to observe plant quarantine regulations. This is absolutely essential. Do we have posters? Do we have warning signs? Do you know of Trinidadians who go on holiday and bring in orchids without permission? Our own people smuggle them in. What about the foreigners who come? They take and they bring in. Do we have reminders and warnings of the danger of smuggling? It is not only drugs, we are doing it well with drugs. In fact, one of my colleagues whispered to me while Sen. Dumas was

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talking about the search on vessels, we are only searching for drugs and we need to add something else. We have to look at those people who smuggle in exotic plants, fruits and vegetables.

I suggest that we tighten the surveillance of what is happening. Monitor the illegal free trade in the importation of things like watermelon, citrus and other fruits, not forgetting wild meat and birds along the southern coast coming in from Venezuela. We need to look at that.

Mr. President, Sen. Prof. Kenny is moving an amendment to clause 6 which I consider to be very serious: To prohibit the importation of a particular species of organism of a biotechnically developed variant of such organism. We are aware that there are organizations in Trinidad and Tobago engaged in biological propagation; tissue culture; genetic engineering; the biological control of pests and diseases; and particularly, the importation of plant pests and other organisms. I hope I understand his amendment properly. People bring in these items. I visited one of the laboratories some time ago and was surprised to see the little creatures that come from a different country and living in little cages and so forth right here in Trinidad and Tobago. These are to be released, these are to be used possibly in experimentation and I am concerned.

I am supporting this amendment of clause 6 from Sen. Prof. Kenny knowing that you have the Caroni Research Station in Trinidad, that is a research station dealing with all these matters of which the Bill is concerned; also CARIRI, CARDI, and there is another one, the Commonwealth Institute of Biological Control. I ask the hon. Minister: is there a monitoring agency? Is there a supervising governmental agency monitoring the work of all these institutions/organizations? By the way, I could start one too, anybody could do it, and I ask: What about these research stations, who monitors, who supervises, who is the adviser? I think it is a very important question to the Ministry of Food Production and Marine Resources and all the officers there.

Mr. President, on the question of the mealy bug as I understand, and I hope our Caricom brothers would forgive us, we in Trinidad and Tobago believe that the mealy bug really came from the North Caribbean. Maybe it came from somewhere else in the world first.

Hon. Senator: Grenada.

Sen. Rev. D. Teelucksingh: I would not say Grenada, but thank you. We have been aware that it came from the other islands. Do we have spot checks or regular officers at the Caricom jetty in Port of Spain? I have been told that now and then they drop in, but we have regular shipments of provisions and fruits coming from the North Caribbean, our Caricom neighbours. Someone told me recently that the mango seed weevil is found in certain Caricom islands and mangoes come to Trinidad from the islands just as if they are grown here, and we need to be careful because that disease has not touched our mangoes yet.

Mr. President, I want to mention two small matters before I take my seat. In our effort to prevent and control the spread of plant pests and diseases we rely heavily on pesticides. Have you bought sweet peppers within recent times and seen green spots on them and tried to wash them off at home? The excessive use of pesticides on our vegetables cannot be washed off from spinach or cabbage. How could you ever wash that off? The excessive use of pesticides on vegetables must be a source of great concern. Are we slow poisoning ourselves? It is very common to see certain vegetables stained with agrochemical in stalls and they are all there for sale for public consumption. I ask the Minister, does the Ministry of Food Production and Marine Resources make inspections of the agrochemical shops to monitor the kind of pesticides and fungicides imported? Do they import freely just to mix and sell? They have their own labs—I can tell you that, I have been there—and they sell to farmers. What kind of supervision do we have?

Mr. President, metaphorically speaking now as I move away from the clauses of the Bill, we are all familiar with the description of the children at school as the flowers of the nation, and we can say that the flowers of the nation are today in a pest-infested garden invaded by the mealy bug of violence and the tristeza of fear and the black fly of lawlessness and the froghopper of rebellion.

Mr. President, we call on all the custodians of the flowers of the nation at the Ministry of Education, those in the family and the wider community, to act decisively to save our precious floral collection at the nation's schools from these forces which threaten to destroy our very special garden, the schools.

Thank you.

The Minister of Food Production and Marine Resources (Hon. Trevor Sudama): Mr. President, I thank all the Senators who have participated in the

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debate and the various suggestions which have been offered which, of course, we will deal with in due course, those that can be accommodated at the committee stage of this Bill.

First, let me respond to some of the comments made by Sen. Prof. Kenny and I think I mentioned it in the other place—but not here—that the Plant Protection Act was assented to in 1975 but was only proclaimed in 1997. That is when this Government got into office, and decided to inquire into the status of the Plant Protection Act. Of course, Sen. Prof. Kenny would know that we were not there before 1995 and, therefore, the responsibility for its lack of proclamation does not rest with this Government. We have since had that Act proclaimed and the orders which are pursuant to that, we are trying to act on them.

On the issue of the regulation of importation—the regulation of the importation of exotic species; and here, mention was made of animals and their importation—I indicate that although there is a relationship, what we are dealing with is the importation of raw, unprocessed plant material, and the regime for the control of importation of animals is a separate one although there ought to be some relationship. Our Animal Plant and Health Division of the Ministry has the responsibility for regulating the importation of animals and this is done under the Animals (Diseases and Importation) Act and the regulations which proceed from that, the Animals (Importation) Control Regulations, and under those Regulations, we seek to ensure that animals which are imported, there is a permit for the importation and if they come from countries where there is a suspicion of disease, there is a period of quarantine, and after that period of quarantine in which some rehabilitative action is taken, they are let out.

3.00 p.m.

Now, obviously, there is law and there is the enforcement of law, but it is possible—and this is a point that has been raised by a few of the speakers—that some things may slip through. The authorities would do their best to minimize whatever slips through; but with respect to other areas of law enforcement, I do not think that the Government can be 100 per cent foolproof in all the avenues to monitor, supervise and control the entry of either plants or animals into the country. Indeed, where there is entry into unofficial ports, that is prohibited, but that falls under the purview of the Ministry of National Security with which, of course, we had to collaborate, simply because we do not have quarantine officers at ports which are not designated ports for the importation of plant material. Anybody found importing through those ports is subject to the sanctions under the

law; but I cannot guarantee that there may not be instances when there is illegal importation through those ports but that measure of control has to be exercised through the Ministry of National Security.

With respect to the definition of “pests” and the amendment to clause 6, I am a layperson so I need to be advised on whether or not these amendments can be accommodated and we will deal with that at the committee stage. Sen. Dumas referred to definitions but he did not make any suggestions as to how we should deal with these definitions to make them more comprehensible, so in the absence of that I really do not know what is his concern with the definitions.

Sen. Dumas also referred to training of quarantine officers and he enquired whether we have incinerators to deal with materials that were impounded. It is not everything you put into law. These are administrative matters that will come, of course, under the purview of the Plant and Quarantine Service Board. I may mention, however, that quarantine officers are subject to continuous in-house training and their capabilities are enhanced to monitor, control, and detect; and that is an on-going exercise. I also need to emphasize what I said in my opening statement, that the plant quarantine officers have access to the technical services of the Research Division to enhance their capacity for detection, control and quarantine and that is also on-going. So it is not as if the quarantine officers operate in isolation from other areas of the Ministry of Food Production and Marine Resources.

With respect to the spread of diseases in Tobago, the mandate of the Ministry’s quarantine service is to prevent and control the spread of diseases anywhere in the country; and I take it that Tobago is part of the sovereign, unitary state of Trinidad and Tobago; so that Tobago is not excluded from the purview of the quarantine officers’ attempts to minimize or control the spread of diseases, whether it is in Trinidad or whether it is from Trinidad to Tobago. The Tobago House of Assembly has certain responsibilities with respect to agriculture and the implementation of policies, and of course, those responsibilities are to be carried out in collaboration with the Ministry of Food Production and Marine Resources. If the Tobago House of Assembly wishes to be autonomous in whatever action it takes, I do not think we have any authority there, except to advise that it should be consulting us in whatever initiatives it takes and that we are not aware of any technical expertise available to the Tobago House of Assembly. This is the way we will attempt to control and liaise with the Tobago House of Assembly.

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Hopefully, the new administration would be much easier in collaboration than we have had in the past.

I want to deal with this whole question of unauthorized entries because Sen. Dumas spoke about the inadequacies in the Bill; and how the Bill does not deal with this; and some “fella” coming up from an ecotourism centre was bringing dust on his feet and so on. If we were to establish controls for every possible eventuality we might end up with a situation where there will be no movements of plant material; there will be little trade. So the whole issue has to be what is feasible within the framework of the resources which are available to us; and also the need not to unduly stultify trade and movement in agricultural products, that is, legitimate trade and movement of agricultural products. We can have rules and regulations and go to the other extreme where we diminish substantially, trade; and that is, of course, one direction we do not want to go into. So whatever legislation we put into place with the administrative support mechanisms, ought to be something which is practical and which can be implemented and executed. There is no point putting laws on the statute books which provide a foolproof case for protection but which are not feasible in real life.

With respect to Charlotteville, it is the same comment I have to make, and that is, Charlotteville is not a port authorized for the entry of raw and processed plant material and if it is so used, that is illegal. Of course, we, at all times, attempt to deal with any illegality but we may not always be successful; but that is the intent. Anybody who wants to bring in plant material into Tobago ought to do so through the port of Scarborough and the airport at Crown Point; and no other place in Tobago.

3.10 p.m.

Sen. Rev. Teelucksingh's suggestion for a national plant protection awareness programme is well taken. I think that we have not done enough to publicize problems that we have in the agricultural sector. We have not done enough to promote the agricultural sector through the school system and in the population, generally, and that is something that we would be taking on board.

With respect to his concern about smuggling of orchids, let me just say that the Plant Quarantine Service operates in collaboration with the customs service, but to catch people who are smuggling orchids is the responsibility of the customs, and when they are caught, then it comes to plant quarantine to do the

necessary investigation and, of course, the application of the rules and regulations. So it means that there ought to be a greater vigilance on the part of the customs authorities in checking into suitcases.

Again, it is a question of what is feasible and what is possible. No customs in the world can check every suitcase and every parcel that comes into the country. There is a process of sample checking and it is in that way that some of the infractions may be discovered. But no customs is capable, anywhere in the world, of checking every item of luggage coming into the country. So that there is a possibility that some things might escape the attention of the customs. This is why this legislation which is before us is talking about pest infestation already in the country and the control and eradication of that, having entered without detection.

Pesticide use and control: I must admit that this is an area in which we have a lot of work to do, but the resources of the Ministry are not inexhaustible. We are attempting to collaborate with other countries in order to get technical assistance to address some of these critical concerns in Trinidad and Tobago. Let me give the Senate an idea, very briefly, of what we are trying to do in some of the areas. What we are trying to put in place—we already have a draft plan and we have reviewed it—is an energy action plan for exotic pests and diseases. Now, when we do discover—like the mealy bug—an exotic pest or a disease, there must be triggered off, immediately, in order to control the spread, an energy action plan.

We did not have one in 1995 when this mealy bug was discovered. That was one of the reasons, because of the delay in implementing effective action, that that disease spread more than it should have and caused much greater devastation. So we have since drafted a plan; we have reviewed it; we need to test it—a test and emergency action plan—so that any time in the future any pest is discovered, that energy action plan is immediately triggered off to minimize the infestation and its spread.

We are engaged in a joint Trinidad and Tobago/Cuba commission and that is to deal with a number of areas; tissue culture, for example, in which we do not have a great deal of expertise. We also have one of the programmes dealing with pest risk analysis and the identification and control of pest-free areas; what are the modalities for identifying pest-free areas and how do you deal with pest risk analysis.

We also have another programme to establish a food technology laboratory and an analytical laboratory to do pesticide testing, as was mentioned by Sen. Rev. Teelucksingh. We need to put that in place, but we need assistance in order to get that going, because in a lot of cases this is done by the Chemistry Food and

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Drugs Division of the Ministry of Health—the pesticide testing—but we feel that the Ministry of Food Production should have that expertise within its own ministry to deal with pesticide residues which will become a very critical issue in the future. It already is, but moreso in the future, in terms of trade and agricultural products.

With Mexico, we have a technical co-operation programme to deal with insect pathology and to identify natural enemies for insects and to spread that programme to other areas in which we are not growing natural enemies. Of course, as you know, we have dealt with the mealy bug problem through biological control, and minimally through pesticide use, but primarily through biological control, and so have we dealt with the froghopper problem, through biological control, and also the citrus fly, which is a preferable method of control, rather than through pesticide use.

There is currently the fruit fly infestation which affects many of our fruits and vegetables, and we are in a programme with Mexico to get technical assistance to set up sterilization techniques for fruit-fly, through various mechanisms which they have devised. But we also need to work on areas where we can develop indigenous natural enemies to the various pests, insects and diseases which afflict the agricultural sector in Trinidad and Tobago.

I wish again to say that I am thankful for the contributions and that as we proceed to deal with the amendments, we are going to take on board some of the suggestions of Sen. Prof. Kenny and, of course, I would be advised by my legal back-up service as to the feasibility of including these in the revised Bill.

Thank you very much, Mr. President.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

3.20 p.m.

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

Clause 3.

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

Sen. Prof. Kenny: Mr. Chairman, before we go to clause 3(b), do you think that the hon. Minister might consider, under “pest”, changing the word “vegetable” to “plant” so it would read “or other animal or plant organism”?

Mr. Chairman: Where is that, Senator?

Sen. Prof. Kenny: The definition; clause 3.

Mr. Chairman: If the Minister is to make a change we would have to revert.

Mr. Sudama: Yes, Mr. Chairman, but if we go a little above that, to the definition of “owner” there is an amendment which we should take before.

Mr. Chairman: We will start right back at the beginning of clause 3 rather than at the proposed amendments.

Mr. Sudama: Mr. Chairman, I beg to move that clause 3 be amended as follows—this amendment came from the House of Representatives:

“In the definition of the word ‘owner’ insert after the word ‘building’ the words ‘or the person who is in possession of or who is for the time being in possession of any land or building’.”

Mr. Chairman: I think these amendments have been circulated so they can be treated as part of the original Bill.

Sen. Prof. Kenny: Mr. Chairman, I have written a proposed amendment that would both simplify and reduce the number of words from 50 to 32.

Mr. Chairman: That has to do with “plant pest”, but I think you wanted to deal with “pest”?

Sen. Prof. Kenny: Sorry, I was dealing with “plant pests” as opposed to “pest”.

Mr. Chairman: I think the Minister was raising something on “pest” not “plant pest”.

Sen. Prof. Kenny: Oh, I see.

Mr. Sudama: I think, Sen. Prof. Kenny’s suggestion was that under “pest” we say “‘pest’ means any parasitical, epiphytal or other animal or plant organism”.

Sen. Prof. Kenny: Yes.

Mr. Chairman: Take out the word “vegetable” and replace it with “plant”?

Mr. Sudama: We are agreeable to that.

Mr. Chairman: Sen. Dumas, you wanted to ask a question? Is it on pest?

Sen. Dumas: I wanted to ask a question with respect to “owner”; an explanation that may help me.

Mr. Chairman: For the benefit of new Senators, when we are going through the committee stage of a bill, we must go through the items in the order they appear in the bill so that we would not be going to and fro. I understand the position, but this is in order to have uniformity and consecutiveness in how we do the work. Go ahead, Sen. Dumas.

Sen. Dumas: Mr. Chairman, my question is with respect to the phrase “for the time being”. I do not understand why you will want that particular construction. I am just wondering if you can help me to understand.

Mr. Sudama: Mr. Chairman, someone may not be fully in possession, they may be there for the time, and we want to bring them in under the definition of “owner”. This notice has to be served on somebody and that person has to be the one who is, for the time being, in possession of the building. It is not only persons receiving the rent on the building but also the person who, for the time being, is in possession.

Sen. Dumas: So, it is possible that the person who is serving the notice would have the people to choose from as to who he serves the notice on?

Mr. Sudama: Or, he can serve them on all.

Question, on amendment, [Mr. T. Sudama] put and agreed to.

Mr. Chairman: Apart from Sen. Prof. Kenny, does anyone else wish to propose an amendment to clause 3?

Sen. Prof. Kenny: Mr. Chairman, what I have done here is to simplify the language—so it would be absolutely clear to everyone—by using the word “organism” to replace the words “insect, nematode, mite, protozoan, or other invertebrate or vertebrate animal”. The idea is to make it as simple as possible and, at the same time, preserve the intent of the legislation to include biotechnologically produced variants of any organism. My point is that this particular subclause contains 50 words where I have reduced it to 32 and it has exactly the same meaning.

Mr. Sudama: Mr. Chairman, may I ask Sen. Prof. Kenny whether he knows what happens when these matters come up in court and definitional questions arise? Will that abbreviated version be comprehensive and all inclusive of what we want to cover?

Sen. Prof. Kenny: It is all inclusive.

Mr. Sudama: That is my only concern because lawyers have a way of finding loopholes in definitions.

Sen. Prof. Kenny: Mr. Chairman, in attempting to list the things there, for example, “insect, nematode, mite, protozoan, or other invertebrate or vertebrate animal” these are all organisms and would include everything. I am not insisting on it, I am just trying to help make law that is understandable to everybody.

Mr. Sudama: I agree that the word “organism” could cover everything. I would go along with Sen. Prof. Kenny’s proposed amendment to the definition of “plant pest”.

Mr. Chairman: Any other comments?

Sen. Dr. McKenzie: Mr. Chairman, for a layperson like me, I agree with what is in the Bill.

Mr. Sudama: In the Bill?

Sen. Dr. McKenzie: Yes, I agree with spelling out “insect, nematode, mite” and so on. I like that.

Sen. Prof. Kenny: Senator, do you know what a nematode is?

Sen. Dr. McKenzie: No, that is what I do not know. [*Laughter*]

Sen. Prof. Kenny: It is an organism.

Sen. Dr. McKenzie: I know all of them are organisms, but I am saying that this is a special type of organism. You see, bright people in the field, like Prof. Kenny, will tie up laypersons like us, so let us be tied by this. I agree that we go with what is here. I do not have a big problem with it, but, probably one of the legal minds could tell us how they could tie us up in court with it and we might want to know which way to go.

Sen. Prof. Kenny: Mr. Chairman, on the Government side we have an eminent attorney, an eminent agricultural scientist; a full side. Am I making an unnecessary issue here? I am just trying to make law which is simple and straightforward.

Sen. Lucky: Mr. Chairman, if you will permit me. One of the experiences I have had in the courtroom is that when a definition is more all encompassing, it

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certainly caters not just for present time but for the future. In fact, that is what legislation is all about. It is all about catering not for now but for eventualities that we might not have conceptualized when legislation was being drafted.

It is, therefore, in those circumstances that I would give full support to the suggestion being made by Sen. Prof. Kenny for the reason that an organism—I hope I am not going too far away from it—would mean any living thing. What one always finds is that when there is too much specificity, in the case of listing every single thing, then one runs into problems. If for some reason we get some mutation which does not fall into that, we will have problems. Therefore, I would like to give full support to that. That is my legal suggestion. [*Desk thumping and Laughter*]

Sen. Dr. McKenzie: Mr. Chairman, I have learned a lot from what the Senator said and now I go with Sen. Prof. Kenny's amendment. [*Laughter*] I do not follow blindly, but I agree.

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

Question put and agreed to.

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

3.30 p.m.

Clause 4.

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

Mr. Sudama: Mr. Chairman, I propose that clause 4 be deleted and substituted by the following clause:

“4. Section 3 of the Act is amended by repealing subsection (2) and substituting the following subsection:

- (2) A person who contravenes subsection (1) is guilty of an offence and is liable—
 - (a) on a first conviction to a fine of five thousand dollars or to imprisonment for two years or to both; and
 - (b) on a second or subsequent conviction to a fine of six thousand dollars or to imprisonment for two years or to both.”

The amendment here seeks clarification. As the clause stands it could be interpreted as if subsequent convictions would carry a penalty less than the original conviction.

We are trying to indicate specifically, that on the first conviction there is a fine of \$5,000 or imprisonment for two years, or to both, and on a second or subsequent conviction, a fine of \$6,000. That is an additional \$1,000. That would make it clear as to what the penalty would be in original and subsequent convictions.

Sen. Rev. Teelucksingh: If you are so serious about contravention of the law, and the first conviction will bring a fine of \$5,000 which is a warning and everything else, the second time around he would only be charged \$6,000.

Hon. Senator: Mr. Chairman, \$10,000.

Mr. Sudama: I am open for suggestions. I did not want to bring a view to the Senate, that the Government is being too oppressive in terms of the penalties which it is proposing. If it is felt that \$10,000 is a reasonable figure, I am amenable to that suggestion.

Sen. Prof. Deosaran: You are changing the punishment which comes in two parts. I think both should go with a similar increase. If you are increasing the fine, I think the imprisonment should also be increased. It is a matter of consistency. You should not increase one part without a commensurate increase in the imprisonment. I suggest four years. You are increasing the fine to \$10,000, but leaving the same imprisonment for two years which is similar to the first condition. You have the same two years, so you are not increasing the punishment.

Mr. Sudama: It is not relative to the money. If a man is imprisoned for two years, I feel that is sufficient imprisonment. I think it is a bit harsh to increase. I am going along with the suggestions of the other Members of the Senate.

Sen. Dr. McKenzie: In the first instance the magistrate has the option of imprisonment or. If the fellow comes back, and we assume it is only these men like to do these wrong things, this time he can say the first time you had a fine of \$10,000. The first time I did not send you to prison. He will have the option.

Sen. Prof. Deosaran: Suppose you put a maximum of four years. I am trying to be consistent with the amendment on the second case.

Mr. Sudama: I think that is sufficient sanction.

Question put and agreed to.

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

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Chairman: There are two proposed amendments. One is an addition. We will do the Minister's amendment first.

Mr. Sudama: Mr. Chairman, in the proposed section 4B(1), delete the words "or an officer authorised by him" and substitute the words "or an officer authorized by the Chief Technical Officer".

Mr. Chairman: An amendment was approved in the other place and it is now proposed to be deleted and substituted by "or an officer authorized by the Chief Technical Officer".

Question, on amendment, [Mr. T. Sudama] put and agreed to.

3.40 p.m.

Sen. Prof. Kenny: Mr. Chairman, before we do the proposed amendment, I would still like to have clarification of clause 6 amending section 4A(b). "The Minister may by Order... prohibit, control or restrict the transportation of any plant..." This is right, "or of any plant, appearing to be infested with any pest or disease, or of any thing whatever...". Can a Minister make an order to prohibit, control or restrict? This is moving of infected material. It says, "or of any thing whatever..."

Mr. Sudama: But it has to be read in conjunction with the rest, that is, "whether of a nature similar to any plant or not, likely to infect any plant with any pest or any disease..." It is anything likely to infect any plant with any pest or any disease.

Sen. Prof. Kenny: I was reading "whether of a nature similar to any plant or not..." It is possible that one could interpret this that a vehicle itself, it is not similar to any plant but the vehicle may have infective material in it.

Mr. Sudama: If it is likely to infect any plant with any pest or disease then it would come under the definition. I think the critical question is whatever this thing is, is it likely to infect any plant with any pest or disease?

Sen. Prof. Kenny: I will go along with the legal draftspeople, but I am still confused.

Mr. Chairman: Your proposed amendment Sen. Prof. Kenny.

Sen. Prof. Kenny: Mr. President, I beg to move that clause 6 be amended as follows:

“Add after 4A(i) a new subclause (j)

‘(j) prohibit the importation of a particular species of organism or of a biotechnically developed variant of such organism.’”

I think that we ought to give the Minister this power because we may not know it today but an organism may become a crisis organism, and rather than have the thing go through the normal route I would propose that the Minister be given power to act to give an order that organism “X” or any biotechnologically developed variant of organism “X” be prohibited from importation.

Sen. Rev. Teelucksingh had mentioned earlier that we have organizations like the Commonwealth Institute of Biological Control, Caroni (1975) Limited and the University of the West Indies. My concern was to make sure the Minister has power to issue an order prohibiting the importation.

Mr. Sudama: I want to, perhaps, restrict it a bit and talk about an organism that is capable of having a deleterious effect on plant product rather than having this blanket provision to prohibit, because we are prohibiting with the objective of preventing the spread of plant disease. Except you are taking the position in areas of uncertainty you just prohibit; you do not know whether it is capable of being injurious or deleterious to plant life, but you are just prohibiting. You are not taking that risk.

Sen. Prof. Kenny: I take your point. This was drafted in haste; “and any organism capable of having a deleterious effect,” if we could just amend that.

Mr. Sudama: Mr. Chairman, I will go along with Sen. Prof. Kenny’s formulation, “capable of having a deleterious effect on a plant or plant product.”

Sen. Dumas: The question was raised about that class of material which can be used for experimentation and manipulation by research institutions. Is there any provision for these people making these importations to require a licence or a specific permit?

Mr. Sudama: It is subject to a permit; you cannot import anything. It has to be accompanied by a permit from the country from which the importation takes

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place and there, an analysis is made of the environment, the circumstances in which whatever is being imported is developed, and that is an assessment of the risk that may be involved by its importation. If it is felt that it could be imported but be subject to some quarantine, investigation and analysis, the import permit would be so conditioned.

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

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

Clauses 7 to 10 ordered to stand part of the Bill.

3.50 p.m.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Sudama: Mr. Chairman, I beg to move that clause 11 be amended as follows:

At 8A, line 2, delete the word "him" and substitute the words "Chief Technical Officer";

At 8B(1), line 2, delete the word "him" and substitute the words "Chief Technical Officer";

At 8B(2), line 2, delete the word "him" and substitute the words "Chief Technical Officer";

At 8A(3) line 4, delete the word "him" and substitute the words "Chief Technical Officer".

Question put and agreed to.

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

Clauses 12 and 13 ordered to stand part of the Bill.

Clause 14.

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

Mr. Sudama: Mr. Chairman, I beg to move that clause 14 be amended as follows:

- (a) in clause 14(d), by deleting the word "subsections" in the second place where it occurs and substituting the word "paragraphs";

- (b) by deleting the words “and”; and” at the end of clause 14(d) subparagraph (e);
- (c) by renumbering clause 14(e) as clause 14(g); and
- (d) by inserting as clauses 14(e) and 14(f) the following:
- (e) by inserting after subsection (2)(e) the following paragraph—
- (f) a person with experience in plant quarantine services nominated by the Chief Secretary of the Tobago House of Assembly; and;
- (g) by renumbering subsection (2)(f) as subsection (2)(g); and”.

4.00 p.m.

Sen. Gillette: No we are not renumbering that.

Mr. Sudama: That remains as (e).

Mr. Chairman: Are you withdrawing (c)?

Mr. Sudama: Yes.

Mr. Chairman: Subsection (c) has been withdrawn, so (d) becomes (c) on your proposed amendment.

Sen. King: Mr. Chairman, we cannot follow these amendments to section 13 of the Act, blindly, because we do not have the Act with this. It is very difficult to follow the amendments that are trying to be made here, or even the Ordinance that you say we had formed an Act out of. We cannot really amend something we cannot see.

Mr. Sudama: We could have that page of the original Act copied and circulated for the benefit of Senators. We had better withdraw all the amendments to clause 14. [*Pause*]

We are not withdrawing the (c); we are renumbering clause 14(e) as 14(g) because we have inserted an (f).

Mr. Chairman: So (c) remains.

Sen. Montano: I do not think we can renumber (e) because (e) is (e) of this Bill not of the Parent Act. The clause (f) that we are inserting is clause (f) in the Parent Act. The clause here is clause (e) of this section of this amendment.

Mr. Sudama: Mr. Chairman, let us adjourn this and we will get some clarification and probably get another view for the time being.

Mr. Chairman: Do you want to withdraw the amendment for the time being? Just tell me what you want to do with clause 14 because I will have to put it to the Senate. Do you wish to withdraw the proposed amendment?

Mr. Sudama: Yes, I will withdraw the proposed amendment.

Mr. Chairman: Hon. Senators, the Minister has asked that the proposed amendment to clause 14 be withdrawn.

Amendment withdrawn.

Mr. Chairman: Since the proposed amendment has been withdrawn, I have to put the question that clause 14 in its original form—*[Interruption]*

Sen. Dr. McKenzie: Are you saying that he is taking off “...nominated by the Chief Secretary”?

Mr. Sudama: No, we are coming back with something—

Sen. Dr. McKenzie: Okay, I did get that part.

Mr. Sudama: The whole thing needs to be more streamlined.

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Clauses 15 to 19 ordered to stand part of the Bill.

First Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, March 6 at 1.30 p.m., at which time we will debate the Telecommunications Bill, 2001.

I beg to move that the Senate do now adjourn to Tuesday, March 6, 2001 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.12 p.m.