
THE SENATE DEBATES

(OFFICIAL REPORT)

SECOND SESSION 1976 – 81

THE SENATE

Wednesday 13th May, 1981

The Senate met in the Senate Chamber, Public Buildings on Wednesday 13th May, 1981, at 12.15 p.m.

PRESENT

His Honour Senator the Honourable Sir ARNOTT CATO, M.B., Ch.B., LL.D., (President); His Honour Senator the Rev. G. ANDREW HATCH, M.A., (Deputy President); Senator the Hon. N. A. BARROW, B.A., LL.B., (Minister of Information) (Leader of the Senate); Senator O'BRIEN TROTMAN, (Parliamentary Secretary, Prime Minister's Office); Senator Sir MENCEA COX; Senator H. F. G. ROCHEFORD, B.A.; Senator R. L. FIELD; Senator AARON TRUSS; Senator H. R. LINTON, LL.B.; Senator K. E. HINDS; Senator C. I. E. DEANE; Senator K. R. HEWITT, B.Sc., C.A., Senator Mrs. E. M. LYNCH, B.A.; Senator Miss M. I. StC. BLACKMAN; Senator J. C. W. WICKHAM; Senator R. E. BRATHWAITE; Senator N. W. BOXILL and Senator W. O. FRANKLIN, A.I.A.S., J.P.

Prayers were read by Dr. L. CRAWFORD.

ABSENT

Senators Miss O. A. LYNCH; J. D. S. MacKENZIE; and Senator the Hon. D. G. BLACKMAN.

PRESENTATION OF PAPERS

SENATOR THE HON. N. A. BARROW: Mr. President, I have the honour to lay the following document:—

Report of the Registration Office of the Supreme Court Registry for the year 1977.

QUESTIONS TO MINISTERS

SENATOR W. FRANKLIN: Mr. President, To Enquire Of The Appropriate Minister.

Is the Minister aware of the circumstances surrounding the death of Ralph Griffith of Bayfield, St. Philip on 2nd May, 1981?

Is the Minister aware that the said Ralph Griffith sought medical attention at the casualty department at the Queen Elizabeth Hospital from Saturday April 25th, 1981?

And is the Minister aware that medical attention was not immediately available?

And is the Minister aware that the said Ralph Griffith did not receive medical attention for over 24 hours?

Is the Minister aware that the services of the Casualty Department of the Queen Elizabeth Hospital have broken down?

And is the Minister aware that the situation at the Queen Elizabeth Hospital particularly the Casualty Department is causing considerable public disquiet?

Will the Minister have the matter surrounding the death of Ralph Griffith, and the general situation at the Casualty investigated?

And will the Minister take appropriate action to have the situation improved immediately?

INTRODUCTION OF BILLS

MR. PRESIDENT: Senator Barrow.

SENATOR THE HON. N. A. BARROW: Mr. President, I beg to give notice of the following Resolution:

A Resolution to authorise the Minister responsible for Finance to borrow by the issue in this Island of Treasury Bills further sums not exceeding fifty-five

million dollars and such sums as may be required to pay off at maturity Bills already lawfully issued and outstanding.

I may indeed, Sir have to ask permission of the Honourable Senate to deal with this today. In a roundabout kind of way it seems to have been communicated that it should be dealt with today, but the Clerks have not taken the care to communicate the files to me the same time they communicated the Resolution.

At this point too, Sir, I would wish to ask that Order No. 8 be abandoned. It is possible, Sir, that when Senator Blackman gets here, he may wish to abandon for the time being Order Number 9, but certainly, Sir, Order Number 8 I would wish to abandon. (ASIDES).

MR. PRESIDENT: Call the Order.

ORDERS OF THE DAY

SENATOR THE HON. N. A. BARROW: Sir, if this is Public Business, I think Honourable Members are aware, Sir that Senator Blackman who is handling Orders Numbers 1, 2, 3 and 9 expects to be back in time to take his items right after lunch.

Order Number Four standing in the name of Senator Trotman is the Item, Sir which we will take fourth and the first three Orders of the Day, Sir, I propose to be Orders Number 5, 6 and 7 in that Order, and in the event that it turns out that this Resolution is needed, or has to be done immediately which the Clerks may check while I am introducing the other Orders, Sir. We will do that as the fourth Order and have Order Number Four as the Fifth Order of the Day.

MR. PRESIDENT: Call Order Number Five.

CURRENCY (REPEAL) ACT, 1981.

Order Number Five was called - To move the Second Reading of a Bill to repeal the Currency Act.

MR. PRESIDENT: Senator Barrow.

SENATOR THE HON. N. A. BARROW: Sir, this Item is a very simple and straightforward one. When we shared currency with the other territories of the Eastern Caribbean, it made sense, Sir for us to have this piece of legislation on our Statute Books, but since Sir, we have assumed complete responsibility for the issue of our own currency and do not share in the issue and control of Eastern Caribbean currency in any way, this Act is now spent and therefore should no longer be on the Statute Books of this country. As long as it remains there, Sir and for as long as it shall remain there, it can have no

effect. Accordingly, Sir, the proposal is that it be repealed.

I beg to move that this Bill be now read a second time.

The question was put to the Senate and agreed to.

SENATOR THE HON. N. A. BARROW: Mr. President, I move that the Senate do now resolve itself into Committee on this Bill.

The question was put to the Senate and agreed to, Mr. PRESIDENT left the Chair and the Senate went into Committee on the Bill, SENATOR THE Rev. A. HATCH in the Chair.

On the motion of SENATOR K. E. HINDS the Bill was taken as read.

Clauses 1 and 2 were called and passed.

On the motion of SENATOR THE HON. N. A. BARROW, the Senate resumed and the Bill was reported.

Mr. PRESIDENT resumed the Chair.

SENATOR THE HON. N. A. BARROW: Mr. President I beg to report the Bill has passed Committee without amendment, and move that it be read a third time forthwith.

The question was put to the Senate and agreed to.

SENATOR THE HON. N. A. BARROW: Mr. President, I beg to move that this Bill do now pass.

The question was put to the Senate and agreed to.

THE CENTRAL BANK OF BARBADOS (AMENDMENT) ACT, 1981

SENATOR THE HON. N. A. BARROW: Mr. President, this legislation has to do very simply with the fact that the Central Bank does make profits, and it is the concern of the Central Bank's Directors and of the Government that appropriate and useful purposes should be found for the funds made by the Central Bank. As you are aware, Sir, it is out of these profits that the Central Bank is able to give support by way of an export guarantee scheme to manufacturers in this country.

The two positive reasons behind the legislation before us are to permit the Central Bank to invest funds, particularly since the last financial year it made some \$10.55 million, to divert some of these funds to support

for small business, and also, Sir, to permit the application of part of this profit to the provision of a finance base for the Stock Exchange.

All of us are aware, Sir, of how long there has been talk of a Stock Exchange and we are perhaps even more aware of the measures taken by this Government, announced from Budget to Budget in order to get persons in this country of whatever rank or station, of whatever calling in life, to participate in the economic activity by owning equity in businesses of whatever sort. Unless we are not serious in these matters, it is important that real meaning and some real life be put into these drives towards the establishment of a Stock Exchange.

Had the proposal related to Central Bank investment in the activities of commercial banking, the proposal would no doubt have been out of order, since the regulatory agency for commercial banking is the Central Bank, and it should not therefore be a competitor with those it regulates. In the same way, however, that the Central Bank has been an important institution, in relation to the export guarantee scheme, in that same way it is compatible with the purposes of the Central Bank that it should stimulate the activities of small business. We are talking, in other words, Sir, about the basic protection of our own economic order within this country, and that, in my submission, can only be protected if stimulus is given to the activities of small people. I can think of no more appropriate function for the Central Bank. I am talking about ancillary function.

The other application, I believe I have made it clear, Sir, that we need to give real life to the moves that have already been made towards the establishment of the Stock Exchange. Only when there is the machinery for freely trading stocks and shares can people with small amounts of money be expected to use their money in order to buy a little bit of this and a little bit of that, and in this way build up their ownership of equity. Let me therefore state that there is nothing in this proposal for anybody to be afraid of. It is not an attempt towards permitting the use of Central Bank funds in areas which are improper, in that the Bank regulates those areas and is now choosing to become a competitor in them. It is all in keeping with the idea of stimulating broader participation within the economy by people who do not have as much money as a number of others who find it easier to participate in economic activity as investors.

I move that this Bill be now read a second time.

SENATOR W. O. FRANKLIN: Mr. President, I welcome the assurance from the Leader of the Senate that this amendment to the Central Bank Act does not in any way allow it to be a competitor with the commercial

banks, since it is reasonable and fair to say that the Central Bank has now acquired the type of expertise and we are beginning to see the fruits of the expenditure invested in the training of the Central Bank division.

There is only one particular thing I want to discuss and this amendment gives me the opportunity, and that is the continual classification by the Central Bank, I am told that it is an international classification but one cannot always be guided by international classifications in certain specific circumstances, of bridging finance as private borrowings, and it is beginning to have its offshoot in that if one notes, the number of mortgages that were awarded and taken out over the last eighteen months has slowed down considerably for the simple reason that with the exception at the moment of the Barbados Mortgage Finance Corporation, all the other lending agencies do not dispense funds at intervals but only on completion of a property, and the fact that bridging finance is now classified as personal is creating a big problem for middle income and lower income prospective owners of houses, and although they qualify for a mortgage in all the institutions except the Barbados Mortgage Finance Corporation, in that particular institution they seem to retain their mortgages for the houses constructed by the National Housing Corporation, therefore it leaves people who are not in these individual areas out on a limb. Most of them, although mortgages have been awarded, cannot get the bridging finance to construct the house.

I would say this is a very serious situation developing since individuals in Barbados as you know are accustomed to building and helping themselves from Sunday to Sunday as they go along and at the end of it they then get their mortgage situation. Since most of these people are not in a position from savings or from other sources to get funds to construct the house to completion, the non-availability of bridging finance is creating a hardship in that sector of the construction industry, and I will once again appeal to the Government to have a look at it and see if it would not be a wise thing as I am sure it would be to remove that type of borrowing from the classification of private loans.

Senator the Rev. HATCH: Mr. President, I would like to make a small contribution in support of the line being developed by Senator Franklin. It is in regard to the fact that as of now the Mortgage Finance Corporation which is a wholly owned subsidiary of the Barbados National Bank does not in fact loan money to what are described as old houses, that is, to existing property, but only for the construction of new property.

Now on behalf of a third party I have been pursuing this question because it seems obvious that given the building boom in the island at the moment, the last thing the National Bank should wish to do is to increase

the competition for the scarce labour that is available, which has the obvious effect of pushing up wages. I have had every courtesy when I have pursued the reason for the lack of flexibility in the Barbados Mortgage Finance Corporation and also at the Barbados National Bank level, which is the owner of the Mortgage Finance Corporation, and every courtesy up to the Board level, and my information is that there is a decision or a determination to change the policy of the Mortgage Finance Corporation so that as opposed to Mortgage Finance being only available for new construction and obviously at a time when building is low, and given the Prime Minister's decision to encourage the private sector into the home construction industry, the origin and the motivation and the intention for this procedure of the Mortgage Finance Corporation in lending funds for new buildings, obviously to create buildings and to create jobs, it was good in origin.

The point is though that it has long ceased to be good, and my question is why the lack of flexibility in a national institution, that is, the Barbados National Bank and its wholly owned subsidiary, the Mortgage Finance Corporation. It seems to me of the essence of a development bank, and I know that within the strict terms of the law neither one is a development bank and we have a Barbados Development Bank, but I take it that basic to both institutions must be a priority for the development of the country. I really am astonished at the lack of flexibility and the lateness in the day with which a decision to change has been made. It seems to me you do not have to be a banker to recognise that far from holding the existing procedures and increasing the competition for scarce labour to build new houses, the Mortgage Finance Corporation should have been directed by the Barbados National Bank long since that they should make funds available for existing houses; and so I raise the issue though I clearly understand and do not wish to be told that the intention is to change.

The point I am raising is why the change in the late stage of the day and to point to a lack of flexibility in an institution that ought to have been monitoring this situation long since.

Senator C. I. DEANE: Mr. President, I heard what Senator Hatch had to say and I agree with it. This is rather late in the day, but it is my understanding that the policy is going to be changed in that direction and they are considering it now; but I should like all Barbadians to remember that the Barbados National Bank started officially I think in 1978 and under their umbrella came several institutions or organisations, I should say, that had individual administration before and it was no little job for the Barbados National Bank to get all things organised within itself.

I repeat and I assure Senator Hatch, he did say that he did not need to be told because he had already heard, that the intention of the Barbados National Bank is to revise the whole situation with respect to the Mortgage Finance Committee lending, and old existing houses will be taken into consideration and not only construction from the ground floor any longer.

SENATOR THE HON. N. A. BARROW: Mr President, I have listened to the points raised and so far as this Bill is concerned, indeed there are two points, really one point but an expansion thereon, and I think Senator Hatch partly answered himself and then Senator Deane completed the answer. It is difficult to talk about being late in the day when you are talking about a relatively new institution.

SENATOR THE HON. N. A. BARROW: The point raised by Senator Franklin in relation to bridging finance and the categorisation of bridging loans as personal loans, again, Sir, Senator Franklin answered himself because he said that he understood that it was International Classification and if the Central Bank of Barbados is not to be regarded as a Central Bank to be taken seriously, it must obviously honour International practices so I do not see that there was a point, Sir.

The question that the Bill be read a second time was put to the Senate and agreed to.

On motion of SENATOR THE HON. N. A. BARROW, the Senate resolved itself into Committee to study the Bill, SENATOR THE REV. A. HATCH in the Chair.

On motion of SENATOR K. HINDS the Bill was taken as read.

Clauses 1 to 4 inclusive were called and passed.

Clause 5 was called.

SENATOR W. FRANKLIN: On this particular Clause, this is a matter of information. I wonder if the Leader of the Senate is in a position to inform us of the status of the Chattel Mortgage situation and if this in anyway would have any bearing on it. What stage do we have it, if they are already available or how soon they will be available, that is the Chattel Mortgage.

SENATOR THE HON. N. A. BARROW: Mr. Chairman, I wonder if Senator Franklin read section 5 on which he purports to ask a question.

Mr. CHAIRMAN: I think Senator Franklin you do have to deal with the details of this Clause and that is

possibly a question you could have raised during the Second Reading stage and not really now and that would deal with the Barbados National Bank as well and not the Central Bank.

The question that Clause 5 stand part was put to the Senate and agreed to.

On motion of SENATOR THE HON. N. A. BARROW, Mr. CHAIRMAN reported the passing of one Bill in Committee without amendments and Mr. PRESIDENT resumed the Chair and reported accordingly.

SENATOR THE HON. N. A. BARROW: Mr. President, I beg to Report the Bill as having passed before the Committee without amendment and I move that the Bill be now read a third time forthwith.

The question was put to the Senate and agreed to.

SENATOR THE HON. N. A. BARROW: Mr. President, I beg to move that the Bill do now pass.

The question was put to the Senate and agreed to.

EXCHANGE CONTROL (AMENDMENT) BILL, 1981

The Fifth Order of the Day was called - To move the Second Reading of the Bill to amend the Exchange Control Act.

SENATOR THE HON. N. A. BARROW: Mr. President, this Bill is a very technical legal Bill in the sense that it involves plugging a loophole in the law. It was not intended, Sir, that certain kinds of transactions done by way of lease should be exempted from the operation of the Exchange Control Act. After all, Sir, it is the business of Lawyers to advise their clients and to advise them, I presume, sometimes to the client's advantage and a loophole has been discovered and it is found, therefore, that the way to plug this loophole is to bring leases to non-residents.

The leasing of real estate to non-residents by Companies as well as the leasing of real estate to such Companies as leased within the ambit of the law and in this way we would be sure that these transactions would be covered by law. The effect of the loophole was that a number of transactions could take place outside of Barbados, monies would not be needed to be brought into Barbados and therefore I think we can imagine the amount of scope that that could give people who were advised of the loophole to use it.

However what we do not wish is that the operation of that provision should be such that a number of persons

who lease properties for periods of three years or less to non-residents that they should suffer any hardships as a result because if you think of it, Sir, somebody who is in the business of leasing residential accommodation might find that when, let us say, a Company is operating here and brings somebody in to Barbados for a specific job for a specific time wishes to rent premises but unless you first got Exchange Control permission then you might not be able to rent your premises for that purpose.

These are not the transactions or the kind of thing that this is designed to catch because the money will be coming in anyhow. What we are talking about are the more substantial operations and which do come in much longer periods because people do not invest a substantial amount of money on three year leases, let us put it this way, so this is the design of this provision.

Mr. President, I move that this Bill be read a second time.

SENATOR N. BOXILL: Mr. President, I wonder if the Senator would be good enough to explain paragraph 2(1)(a):-

"For the purposes of subsection (1), "lease" includes an underlease, sub-lease, tenancy or licence and any agreement for a lease, underlease, sublease, tenancy or licence; but does not include a lease where

(a) that lease is for a period of three years or less; and"

(b) the payment in respect of that lease

(i) is received in Barbados, and

(ii) if made in a currency other than the currency of Barbados, is offered for sale to an authorised dealer within 15 days of the receipt of that payment."

This is the part that I cannot really understand too well and I wonder if he would be good enough to explain it more fully to me. You see, it has me baffled here with the part about:

(ii) if made in a currency other than the currency of Barbados, is offered for sale to an authorised dealer within 15 days of the receipt of that payment."

Mr. PRESIDENT: Senator Franklin.

SENATOR W. O. FRANKLIN: Mr. President, to enquire of the Honourable Leader of the Senate as well, what would be the position for a lease under three years

with an agreement to extend the lease? The option to renew? A lease under three years with an option to renew?

Mr. PRESIDENT: Senator Hewitt.

SENATOR K. R. HEWITT: Mr. President, following the query by Senator Boxill, I may just indicate how I see the paragraph really. It is saying number one that exempted from the term is a lease for less than three years Secondly, to be exempted, the payment in respect of that lease has to be received in Barbados and if the payment is received in non Barbados currency, then, that currency has to be deposited with a dealer. It used the word "sale" here, but I would assume that it means deposited with a dealer within 15 days. In other words, non Barbados currency must be sold to a commercial bank within 15 days.

(b) says:

"the payment in respect of that lease

(i) is received in Barbados, and

(ii) if made in a currency other than the currency of Barbados, is offered for sale"

It is the payment in respect of the lease which is offered for sale to the authorised dealer which would normally be the commercial banks.

Mr. PRESIDENT: Senator Barrow.

SENATOR THE HON. N. A. BARROW: The problem, Sir is when you run into a question that you really do not at all expect, but to follow the principle which is reflected in that thing about offering the currency for sale within 15 days. If we looked at the Law in relation to Exchange Control and the possession of foreign currency, as strictly as some people would wish to look at it, we might find ourselves with interpretations that say that no taxi driver for example is entitled to receive United States dollars because unless you are an authorised dealer, then you have no right being in possession of foreign currency.

In other words, this provision here puts into operation a common sense thing that if you rent a house and somebody pays you for that in United States dollars, that you have 15 days to go and get it to the bank. That is really all it says, Sir. It says in other words, that just merely being found in possession of foreign currency is not to be itself an offence. There is a reasonable period of time to get it to the bank.

As to the other question, Sir, perhaps it would be wise just to explain that a lease for a particular period of time has to be evidenced in writing and if you do not evidence that lease in writing, there are circumstances in which a court will hold that although you do not have

the deed executed which covers a lease for a period of time, for that period of time, then an agreement for the lease would be held to be just as good as the lease and that the court will make you enforce its provisions. So that, that is why you have to make the provision not only for the lease, but for an agreement for a lease.

As to the other point raised by Senator Franklin, the fact of the matter is that if you have an option, what you have is an option to lease again and each lease is a separate agreement. So that, there is not really a problem in respect of that.

The question that the Bill be read a second time was put to the Senate and agreed to.

On the motion of SENATOR THE HON. N. A. BARROW, the Senate resolved itself into a Committee on the Bill, SENATOR THE HON. REV. G. A. HATCH in the Chair.

Mr. CHAIRMAN: Senator Hinds.

SENATOR K. HINDS: Mr. Chairman, Sir, I beg to move that the Bill be taken as read.

The question was put to the Senate and agreed to.

Clauses One to Three inclusive were called and passed.

On the motion of SENATOR THE HON. N. A. BARROW, the Senate was resumed and the passing of the Bill was reported.

Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. N. A. BARROW the Bill was read a third time and passed.

Mr. PRESIDENT: It is my understanding that the Bills dealing with children under the name of Senator Don Blackman will be done later on today, but Senator Blackman is still on a flight which is expected to arrive here about 2 o'clock, I gather, which would mean that he would hardly be here before 3 o'clock.

SUSPENSION OF SITTING

Mr. PRESIDENT: It will be convenient to suspend the sitting now, and on resumption the Bill dealing with legal matters can be dealt with and that will give time for the Senator Blackman to come.

Accordingly, this sitting will be suspended for one hour.

On Resumption:-

Mr. PRESIDENT: The sitting is resumed.

THE COMMUNITY LEGAL SERVICES ACT,
1981

SENATOR O'B. TROTMAN: Mr. President, Chapter 3 of the Constitution of Barbados provides for the protection of fundamental rights and freedoms of the individual. Specifically in section 18 of the Constitution it is provided that if any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

Subsection (2) of that section reads: "Every person who is charged with a criminal offence -" and it lists other sections (a) (b) (c), and

"(d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;

(e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution."

It is with that in mind, Sir, that the Legal Aid in Criminal Cases Act, Cap.139A was passed in this country. That Act provided for some measure of legal assistance for persons charged, according to the First Schedule of the Act, with any capital offence, manslaughter, infanticide, concealment of birth and rape, all indicatable offences where the person charged is a child or young person, and it also makes provision for fees to be paid to attorneys who are selected to represent the persons charged, fees in varying degrees for preliminary enquiries, in respect of capital cases, for travel, etc.

That, Sir, is the background against which the present Community Legal Services Bill which we are considering is drawn. The present Bill goes beyond the question of merely giving some assistance to persons as categorised in the First Schedule of Cap. 139A. Part I of the Bill deals with the establishment and constitution of a Commission, and in section 4 it is stated:

"A body corporate to be known as the Community Legal Services Commission is hereby established for the purposes of this Act."

Section 5 deals with the duties of the Commission and goes on to deal with the powers of the Commission, the

establishment of a Director, the provision for the Commission to have its own legal counsel, the appointment of attorneys at law to serve the Commission.

Part II deals with the expansion of the services now rendered under the Legal Aid in Criminal Cases Act. In the First Schedule of this Bill you will find listed those situations under which legal aid is afforded to persons charged, and the point to note, Sir, is that not only now will persons involved in criminal cases be eligible for legal services, but it will also relate to matters involving landlords and tenants and family law.

The Second Schedule to the Bill says that the Commission shall consist of two members appointed by the Chief Justice - and I should make note now that there is an amendment to that - it says in the draft which is circulated, two members appointed by the Chief Justice from a panel of names nominated for the purpose by the Council of the Bar Association. That really should read, Sir: "two members appointed by the Chief Justice on the nomination of the Council of the Bar Association." There are two other minor amendments, Sir, which I will note in Committee. It goes on to have one member appointed by the Chief Justice on the nomination of the Dean of the Faculty of Law of the University of the West Indies; two members appointed by the Chief Justice in his absolute discretion; one member selected from among the public and appointed by the Minister; the Solicitor General *ex officio* and the person who is appointed Director of the Commission. That will be the constitution of the commission.

Since I made note of the first amendment, I will make note of the second one here. On page 29, sub paragraph (4), it says:

"In the absence of the Chairman, the members present and constituting a quorum shall elect a Chairman from among their number to preside at that meeting."

That should read, "In the absence of both the chairman and the deputy chairman the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting."

On page 32, Sir, it says: "There shall be paid to the chairman, a deputy chairman and other members of the Commission, out of the moneys provided by Parliament....." That really should read: "There shall be paid to the chairman, the Deputy Chairman and other members of the Commission" instead of "a deputy chairman".

The broad differences between this Bill and the Bill which it seeks to repeal are that there will now be a Commission to administer legal services in this country; secondly, the Commission will have its own Director and

its own legal staff, the question of categories of offences which become eligible for legal assistance are extended to include family law, matters of landlord and tenant and maintenance and applications under section 24 of the Constitution, etc. Those are listed in Part II of the Schedule to the Bill.

With that, Sir, I beg to move that the Bill be read a second time.

SENATOR N. W. BOXILL: Mr. President, I, the introducer of this Bill would have elaborated a bit more, but he has put me in a quandary because I have only got down to page 14. As far as I have read in this Bill, it would seem that this has been made specifically for people living in Barbados. I do not think this is fair for the simple reason that, and I am speaking with authority on this matter, we have people who come here who can get themselves involved in something unfortunately. What would be the position of that person? let us assume that one of the inter-island schooners come here and one of the people working on one of those schooners gets accused for something. It would be very difficult for that person, who probably might not have been paid yet because it might be the first trip he has made, to get in contact with a lawyer or to get money to pay a lawyer.

When we are making legislation, we cannot make it in isolation. The reason I am saying this is that I have known of more than one occasion where I have had to appear in court in Canada to represent Barbadians. I am not saying that we need to have this sort of thing here, but I have known of two cases in one of which a Barbadian was charged for cutting a man and the cut took 37 stitches, and I had to seek legal aid for that man.

Mr. PRESIDENT: The hon. member said he stopped at page 14 as I understand it. If he reads page 15 he will see the questions he is raising in that part of the Bill.

SENATOR N. W. BOXILL: Well, Sir, this shows that I really was not raising something just for the sake of raising it, and I am happy that you stopped me and drew this to my attention, since it was my misfortune that I had to stop at page 14. I thought the hon. member would have gone on further to elaborate and this would have saved me the trouble of getting up. I am glad to see that people who come here and happen to get themselves involved unfortunately can get legal aid. I am really in appreciation of the matter, but I am sure that I saw in some part of this Bill where the person who is getting legal aid - and I am speaking under correction is entitled to choose whom he wants. I hope I am wrong about that because that is nonsense if you are giving somebody something.

What I want to say is that I hope this does not mean that the person who happens to go before a jury or

judge would not get the best representation, because although I am not saying that it happens here, I have seen it happen where people because of not having good lawyers to plea their cases did not get the best representation under the legal aid system, because the lawyer felt that because the Government was paying for it they did not have to bring out all the fine points where the law was concerned and where facts were concerned and as a result they did not care whether he went to prison or not or could not care less what was the outcome. I feel that all the lawyers should be involved so that they will at some time be called upon to give legal aid to some of these unfortunate people who cannot afford to get aid. At the same time I am hoping that this is not abused where people who can afford to pay a lawyer decide that they will get legal aid out of the taxpayers' money. This is something we have to watch, but I assume that all this will be taken care of.

I am sorry that I got up because as I pointed out earlier, I did not get a chance to read this. I may only have got it today or maybe I only read it today. I am not accusing anybody because I got it late, but I said that I read it late, and as you see I stopped page 14 and the President, for which I thank him, pointed out that the point I was raising was on page 15; so I do not think there is any need for the introducer of the Bill to reply to the points I raised since it is there already.

SENATOR J. WICKHAM: Mr. President, I have gone a little further than page 14 and on page 22 at the top of the page the Bill says that "Regulations made under this section are subject to negative resolution". Now we have heard reference to negative resolution in a notorious case recently, and I am not quite clear what is the mechanism which must be used to negative this resolution. I would like to get some explanation on that. It would be useful for I think the whole Senate to understand how are the Resolutions made by the Commission with the approval of the Minister to be negated.

SENATOR O'B. TROTMAN: Mr. President, the only point raised was the one by Senator Wickham on the question of negative resolution. The way in which that is done is that an order or regulations are laid in both Houses of Parliament and either House of Parliament has 40 days after the laying of that order or regulations to negative the order or regulations which is done on a resolution by any member of the particular House.

Almost a point made by Senator Boxill was that members of the Legal Profession might take the attitude that they are being paid by the Commission anyhow and they could not care less whether their representative goes to jail or anywhere else. That is a matter which he will have to sort out with the legal profession. I am sure that profession is quite capable of defending itself against Senator Boxill so I am not prepared to defend them.

He also raised the question, Sir, of persons who can afford to contribute towards their own legal representation; and that point I think is raised in Section 26 where the Commission can ask the person so represented to make a contribution to the representation. That was not a point, Sir.

The question that the Bill be read a second time was put to the Senate and agreed to.

On motion of SENATOR O'B. TROTMAN, the Senate resolved itself into Committee to study the Bill, SENATOR THE REV. A. HATCH, in the Chair.

On motion of SENATOR K. HINDS the Bill was taken as read.

Mr. CHAIRMAN: And did I hear you say in Parts?

Clauses 1 to 7, inclusive, were called and passed.

Clause 8 was called.

SENATOR W. FRANKLIN: Mr. Chairman, in Clause 8 it seems to me to be an imposition to ask the Director to act as Secretary to the Commission as well as I think that if you look at the duties it seems to me that the duties are full enough to merit a separate Secretary to the Commission.

SENATOR J. WICKHAM: I am afraid, Mr. Chairman, that I cannot agree with Senator Franklin at all. Here is the first instance of a kind of economy in the employment of staff which I have seen in a long time and in the interest of the working of the Commission and it would seem in fact to me that the Director is the most suitable person to act as Secretary to the Commission.

We have to remember, Mr. Chairman, that in the Court the Judge himself is his own Secretary. He takes all the notes of evidence. It does not seem to me at all to be any imposition for the Director to act as Secretary of the Commission.

SENATOR N. BOXILL: I do not wish to cross swords with Senator Wickham but while he might accept that the Judge has to do this, there is no reason why it should be done. This is an imposition on the Judge that it is antiquated and it should have been stopped years ago. Why should the Judge have to take down all of this and write in longhand since he cannot write in shorthand.

I cannot agree with Senator Wickham that since the Judge has to do this that somebody else has to do it. I think that now that you are looking at this new system that the time has come when you really need to have a proper change. I notice in other parts of the World in the Courts where they have a new device where someone is

there taking down verbatim what is said by witnesses. It is a new kind of dictaphone where you talk into this thing. You repeat what the person is saying into the microphone so this imposition where the Judge has to be sitting down there and he has to be writing and writing all the time and sometimes when the Judge is finished writing nobody can read what he has written not even he himself so I think the time has come when this antiquated system should be thrown through the eddies.

I am sorry that I have to disagree with my good friend Senator Wickham but at this time I cannot share his views. I have to agree with Senator Franklin that I do not see why the Director should have to be the Secretary to the Commission. The Commission can get one of these new dictaphones that people talk into. It does not have to be somebody who knows shorthand or who can type. You only repeat exactly what the person has said. You are only a parrot. You are repeating what somebody has said and it goes on to a tape and then you can play it back and that would solve a lot of the problems.

SENATOR K. HEWITT: Just to assist in the prolonging of this thing, Mr. Chairman, but I was wondering if Senator Boxill was not interpreting the word "Secretary" in too confined a way because someone who functions as Secretary of the Commission or Secretary of a Company for that matter does not necessarily mean that that person will write down himself or herself whatever it said.

You can function as a Secretary without having to do that. You can function as a Secretary doing that and I think in (b) where it says "employed with the approval of the Commission such staff as may be required" would cover whether or not the Director functions as Secretary or will himself hire someone to assist him in note taking so he can function technically as doing Commission secretarial work, not necessarily shorthand and typing and he can also have an assistant or that type of person if he or she so desires so what I am saying is that I do not think that we should interpret "Secretary" there in too narrow a way.

The question that Clause 8 stand part was put to the Senate and agreed to.

Clause 9 was called and passed.

Clauses 10 to 20 inclusive were called and passed.

Clause 21 was called.

SENATOR O'B. TROTMAN: I beg to move that Clause 21 stands part, Sir.

Mr. CHAIRMAN: Senator Marjorie Blackman.

SENATOR MISS M. I. ST.C. BLACKMAN: Sir, in reading through this Bill, I notice that Subsection (2) in 21:

"A legal aid certificate may be issued only where the person is a citizen, permanent resident or immigrant of Barbados."

Then, in subsection (3), it goes to point out where other people can also be issued with these certificates. I just wondered if that were an error that needed correction to it.

MR. CHAIRMAN: Senator Trotman.

SENATOR O'B. TROTMAN: I do not think it is an error, Sir. I think in fact, Mr. Chairman, it is a no point which Senator Boxill was trying to make a point of Sir.

Subsection 2 quite clearly gives general guidance to the Director that persons who are citizens, permanent residents, or immigrants have some claim on the service and subsection (3) gives some discretion to the Director in instances where he considers that in the interest of justice persons, as raised by Senator Boxill may also be given some protection under the Act.

I see the Honourable Senator getting ready, I will give way for him.

MR. CHAIRMAN: Senator Boxill.

SENATOR N. W. BOXILL: Mr. Chairman, Sir despite the innuendo that the Honourable Member has just used and I use Honourable very guardedly, Sir. It says:

"A legal aid certificate may be issued only where the person is a citizen, permanent resident or immigrant of Barbados."

I feel that "only" should be taken out because then, you go on here to say,

"Where the Director is of the opinion that the interests of justice demand that legal services be provided"

Suppose the Director does not feel so. The Director is not God and even God said that he would not drown the world again. I feel that the word "only" should come out of this thing because if it says, "only" where the person is a citizen, it means that the point that I raised earlier that the Honourable Member thought was a non point of non issue is really a terrible issue because you can have people coming here and I point out before, where I have had to have legal aid in Canada for people who have been charged for wounding with intent and another fellow who had been charged for rape. If this "only" were in the Canadian Act, it would have meant that these fellows

would have gone to prison for something that they really did not commit and therefore, I am asking the Honourable.....Now, this really shows the lack of, alright, Sir, do not bother. (ASIDE: Understanding.) Understanding. I want the Honourable Member to listen to what I am saying because this is something serious that we are dealing with. You are dealing with people's human rights and although I do not feel that people should commit offences and get legal aid willy nilly, at the same time, the Law is there and if you are going to make the Law make the Law proper. Do not make a half baked Law that later on we are going to have to change within the next two or three months and give me a lot of trouble to come to argue legal points that I am not versed in.

My view is:

"A legal aid certificate may be issued only"

The "only" should come out. I would think, a legal aid certificate may be issued where the person is a citizen, permanent resident or immigrant of Barbados. If you put in "only", you are exempting those other people from the other places. Then, it goes on to say:

"Where the Director is of opinion that the interests of justice demand"

Suppose the Director does not feel that the interest of justice demands it? You mean that you are going to lock up an innocent man and then ask me as a taxpayer to feed somebody in prison that should not have gone to prison. I want you all to be serious. We are dealing with Law. You can call on Hutson, you can call on the reverend, this is Law that we are dealing with here and I am a legislator whether you like it or not and I am saying that I do not like the word "only" in the second line on page 15 of 21 (2). "only" should come out because where it is "only" it is left to the discretion of the Director that where he feels....suppose the Director does not like somebody because their hair is knotty. You mean that you are going to lock up a person at the whims and the fancy of the Director? Let us be realistic. We are passing legislation here for the protection of people who cannot afford to get legal aid on their own. We are providing legal aid for people and if we are going to make it this kind of way where it is at the whims and fancy of the Director, we are wasting our time as legislators.

Mr. CHAIRMAN: Senator Rocheford.

SENATOR H. F. G. ROCHEFORD: Mr. Chairman, I think that the Honourable Senator is a little obscure in his thinking because we are passing legislation for the benefit of Barbadian citizens and we are providing for our people firstly. If we feel that somebody else needs it, we can give them, the Law provides that. The Director is

given discretion if he thinks that somebody else deserves it. I do not see anything wrong with that. We are really passing legislation for our people, first.

MR. CHAIRMAN: Senator Linton.

SENATOR H. R. LINTON: Mr. Chairman, I really wanted to speak on this Bill on its Second Reading, but I could not have been here. I want to take issue with Senator Boxill with regard to the interpretation of the word "only" there. I do not think that the word "only" as it is used in that context so circumscribes the provision that it makes a nuisance or nonsense of subclause (3) at all. This is normal drafting practise that one subclause qualifies the other.

As a matter of statutory interpretation, no matter how strong the words used are once the particular clause where the strong words are used is followed by a qualifying subclause, then the correct interpretation is placed on it, so as not make a nonsense of the qualifying subclause.

So far as the question of allowing this discretion to reside in the bosom of the Director is concerned, I see no harm in that. This happens in England, it happens both under the Medical Health Act and the Legal Aid Scheme. It happens in Canada. It is a discretion in Canada whether or not aliens are granted legal aid. It is not a statutory right in Canada, as Senator Boxill will have us believe.

I have studied Canadian jurisprudence and I cannot go to Canada, break the laws and then throw myself upon the mercy of the country like that, and that is indeed as it should be. If we are going to provide a free medical health service, as we have done in this country, and we are going to provide a free legal aid service, and relatively free social services after five years of rule, I do not see why we should be called upon by Opposition Senators to extend them to all willy nilly, Sir. They should be extended to Barbadians first and foremost, and only given to aliens as a discretionary exercise of power. I see nothing wrong at all with that, and no Opposition Senator should be allowed to force it down our throats, Sir.

SENATOR O'B. TROTMAN: For your benefit, the point he is trying to raise is that there is a general restriction for legal aid to be provided for citizens, permanent residents and immigrants of Barbados, according to subsection (2) of section 21. Subsection (3), notwithstanding the general provisions of subsection (2), gives some discretion to the Director to other persons who would not normally be covered by subsection (2), if in the interest of justice he considers that it is desirable that such aid be given, but we have a strange argument. During the second reading the Senator was making a plea

that persons who are non-citizens, non-residents and non-immigrants of Barbados should not be excluded from the provisions of the Bill. The President, who was then in the Chair, Sir, drew to his attention that he was one page short and that had he gone on to page 15 he would have seen that other persons, and I suppose this would include holders of work permits, tourists, crew members and airline crew. So during the second reading we had a plea for these other categories of persons. When it was then pointed out that some limited provision was made for other persons, we have now a counter argument that the whole provision is now wrong, so I am not too sure, Sir, how the Senator is arguing.

Under the circumstances I cannot see any conflict at all. It is not the first time, and I am sure it will not be the last time in the laws of Barbados that we will find general provisions laid down in the law and then some provision made, notwithstanding it is found in line 4 of subsection (3) of paragraph 1. The point is, the paragraph does not start with "notwithstanding" and therefore the Senator is finding difficulty in finding it, but if he goes down to line 4 he will find it. Notwithstanding subsection (2) the other persons have some entitlement. It does not in any way conflict with subsection (2). I cannot take the point, Sir.

The question that clause 21 stand part of the Bill was put to the Senate and agreed to.

Clause 22 was called and passed.

Clause 23 was called.

SENATOR O'B. TROTMAN: Mr. Chairman, I beg to move that clause 23 stand part of the Bill.

SENATOR K. R. HEWITT: Sir, clause 23 here seems to make students at law eligible to be providing services in the context of legal aid. I am a little hesitant about this, I think it is necessary that in providing the legal aid the individual catered to must be assured that he is not getting substandard service, and in this situation I think that appearance is as important as the substance. In other words, I am not saying that the student may not be capable of rendering a proper service, I am suggesting that it could appear in any particular instance that a student may not be rendering a proper service. I find it a little curious.

If one may suggest that this is an effort to expose the students - I do not know if that may be an argument - it would seem to me that the students should be exposed by working along with attorneys. (ASIDES). I do not think that is what it says, Sir, because it says here:

"Notwithstanding section 22 and anything contained in the Legal Profession Act, a person

undergoing a course of study in Law...hereinafter referred to as a student, may, subject to subsection (2), provide such legal services....

It gives the student the right to provide the services even although he is supervised by somebody else, and that is a little different from the attorney having the right and dispensing the services, but with the assistance of the student. I think there are two different emphases here, so I do not agree with it, and this is what the Bill says.

What I am saying, Sir, is that I am not 100% happy with the fact that the student is given the right to dispense these legal services, and it is curious, and I may ask the question whether such a right for the student to dispense such legal services will be limited only in the case of legal aid. As I said, Sir, I think the appearance in this respect is as important as the substance, and I am not too sure that the student should be entitled to dispense these legal services, even although the Act says he will be supervised.

SENATOR C. I. E. DEANE: Mr. Chairman, I rise to support what Senator Hewitt has said, because the very basis of our Judiciary is that justice must not only be done but it must appear to be done. I support Senator Hewitt.

SENATOR H. R. LINTON: Mr. Chairman, this particular provision, although one could possibly agree with Senator Hewitt in so far as he may be of the opinion that it is not properly worded so as to protect litigants from students who are not of course fully qualified, it demands an understanding of the origin of law in order to understand it, because it is only comparatively recently that lawyers were required to take examinations at all, and up to about six or seven years ago one heard of tales of people leaving here, doing all sorts of things, going to England and spending twelve months and returning as qualified lawyers. Prior to that one only required to associate for a certain period of time with a qualified lawyer, this is in England, and as an adjunct to that, to eat a certain number of dinners in order to qualify as a lawyer. This is in fact the history of the dining at the Inns of Court.

The whole idea was that you served an apprenticeship. You went to court as a qualified lawyer and after you had spent a few months and he allowed you to do a few small cases, then as a means of discussing further with you the points of law involved in those cases which were done and of course any other cases which had been done by other lawyers, you had to dine as a fraternity at the Inns of Court, and of course you know there are several Inns of Court, Grays Inn, Middle Temple, Inner Temple and Inns such as that, and once

you had dined for a certain number of terms as they are called, you were then called to the Bar. There was never any such thing as a qualifying examination in terms of the legal profession. In fact it is one of the most recent professions to have instituted any kind of qualifying examination.

In my day, Sir, one first had to do a degree with one of the Universities before one could be admitted to the practical course in law, and now colleagues of mine such as Senator Boxill could not qualify in law perhaps. But to go back to the serious point which I was making, one of the main defects in the system as it obtains today with the Council of Legal Education is that the students based as they are in Trinidad and Jamaica at the University Campus are not given enough opportunity for exposure such as one got when one studied in England, because even those lawyers who qualified in twelve months spent a lot of their time going around the Old Bailey and other courts in London and observing law in action.

Now, Sir, observing law in action in my view is twice as important as passing any number of law exams, because when one comes out of that law school with the rudiments of law, one then has to apply oneself and understand law. Very often one knows the definition of a tort or of libel or slander, but except one sees how it is done in court and one is involved in actually pleading a case in court, one does not up to that point understand how to defend a client. The practical experience is much more essential. It is therefore very important that students, particularly students of the Council of Legal Education be exposed to a practical course of training.

That brings me to this, what happens at the moment without this Bill. Last week I received a letter from the Council of Legal Education, I suppose every practising lawyer received it, asking if I would be prepared to take a student in Chambers with me from the month of June until about September. I have been doing it now for about three or four years, and twice a year one gets a student. He goes to Court, he is put to do drafting, pleadings, write opinions, take evidence, take notes, sit in at conferences, and he does everything that the lawyer does. Any third year student worth his salt, any student of the Council of Legal Education must be able to draft an affidavit because they are not terribly difficult things to do. They demand a slight knowledge of the law, but any student ought to be able to do them and indeed most students are encouraged to do them. Why? My law clerk prepares affidavits. Any competent secretary prepares divorce proceedings for her lawyer or his lawyer if you have a male secretary as there are some in James Street. This is nothing new. If you have clerks, secretaries and clerical officers doing those jobs, that is the type of thing I envisage will be assigned to the law student. I do not

for one moment suspect that any responsible lawyer will take a law student and send him in to do the Biggs case at all. I do believe that one has to understand that lawyers are so responsible that they will decide which cases will be given to the law student, and Senators have no fear that law students will be sent into court. They simply have no right of audience in the court so that their duties will be restricted to what they can do in Chambers, and I believe that on occasion the magistrates will entertain them when they are requesting adjournments for the lawyer simply because he is unable to attend; but I do not think that this provision, even though I go so far as to say that it is badly worded, will do anything to affect the rights of litigants seeking legal aid. I do not see that lawyers will take the work from the Commission and palm it off on a law student. I do not see the need for any greater protection.

I think it is of vital importance that law students particularly those coming out of the Council of Legal Education ought to be given opportunity to be exposed to practical law particularly as the lack of such exposure is proving to be one of the greatest defects in the system of local training that we have instituted since 1972. I would ask hon. Senators to support this and to rest assured that there is not likely to be any abuse of the system because what happens now is exactly what this Bill proposes, that the lawyer will give a certain amount of work to the law student where the lawyer is of the opinion that the law student can do it, and that is going to continue.

SENATOR K. R. HEWITT: For a moment I was wondering whether Senator Linton was opposing my contention or agreeing with it. Senator Linton suggested that there are some people who having passed through law school still have a lot to learn. I am going to take some short cuts in what he said. He also said that there are some employees, secretaries and so forth who do things of a legal nature for their employer.

The point I am trying to make is that if as Senator Linton suggests there are people who even having passed through law school still have that much to learn, I am asking Senator Linton the *raison d'être* for making this a part of the Act. There is nothing saying that if this section were not here Senator Linton or a person on the panel could not make use of the law student in giving him some measure of exposure.

SENATOR H. R. LINTON: On a point of order, Mr. Chairman, I think it is a point of order indeed because Senator Hewitt is saying that there is nothing in this Act which says that the Attorney at-Law could not pass on work to the student without that provision. I would simply invite the Senator to look at Clause 15 which states that "No Attorney-at-Law who has been appointed to provide legal services may secure another

Attorney-at-Law to render such services unless..." and it goes on to state the exceptions. Well if one cannot delegate to another Attorney-at-Law, it goes without saying that one cannot delegate to a student, and that is the *raison d'être* as I see it, for the provision of Clause 23.

Mr. CHAIRMAN: You know that is not a point of order.

SENATOR H. R. LINTON: It is a point of elucidation, but it is valid just the same.

SENATOR K. R. HEWITT: Mr. Chairman, I do not want to prolong this really. I still find it curious that it should be enshrined in an Act of this nature which is seeking to provide legal aid to those not financially able to provide that legal aid that a law student should be able to provide those services, and I find even more curious some of the comments by Senator Linton. The fact that a law student needs to have practical experience is one thing, but to put it in the Act that part of that legal experience should come by way of dispensing services to the financially unable I think could be interpreted, not necessarily that it would be so, that there is a possibility that the individual could be getting sub standard services. I think that the law student could get what practical experience he needs without this section in this Act.

Senator Linton as he says employs people during the summer. There is nothing in Act saying that we must do that and I can see that the law student can pick up his experience elsewhere. I am a little concerned that it is a part of the Act.

SENATOR H. R. LINTON: Mr. Chairman, I must force this point because I think with great respect to Senator Hewitt that his difficulty arises from either a misconception or misunderstanding of Clause 15 of the Act.

Clause 15 prohibits the Attorney-at-Law except in certain circumstances and students are not there in those exceptions provided for, delegating his work even to other attorneys-at-law. Consequently, if he cannot delegate to other attorneys-at-law I cannot see how without Section 23(1) he could in fact delegate to students.

Now, Sir, another misconception, if I may call it that, is that attorneys-at-law, the interpretation which I place in Senator Hewitt's words, seems to me that he is saying that attorneys-at-law will only delegate legal aid work to students. That is not so, Sir. (ASIDES) That is the construction I put on his words, Sir. I do not want it to go out in the Press like that. Section 23(1) enables the attorney-at-law to delegate the legal aid work to students but that does not mean that attorneys-at-law will not now or in the future also delegate work where the clients are

paying for the services themselves. That is what happens now.

There is a need for this Bill to be extended to students and what I should have stated in my principle contribution on this point, Sir, was that if one wants to look at a profession which makes use of actual clients and clients' work for the training of its students, one has to look no further than the accounting profession because that, Sir, puts people who have not even gone through any exams at all to do accounting work. That is the accounting profession. We see them advertising every day, Sir. We want trainees either as accountants or to do audit work. You must have a number of "O" Levels and "A" Level, probably not, and they train them.

Senator Hewitt, Sir, is not going to tell me that they make up work in order to train their accountants. What do they train them on, Sir? They train them on clients' work, and actual work. He is not going to admit, Sir, that the accounting profession is any less important or less serious than the legal profession, and if he admits that I would be terribly surprised, Sir. That is a good example of students being trained for that sort of thing, Sir.

We have the medical profession as well, Sir, where students have to do internship and when they have to examine bodies, Sir, I do not for one moment believe that the Doctors put them on dummies at all. I do believe that the Doctors put them on real bodies. That is nothing new and the fact that the Act makes specific provision for it does not make it any more novel than it was before, Sir. Thank you.

SENATOR K. HEWITT: Sir, I really do not want to prolong this type of thing but unless Senator Linton was speaking just so, I am really surprised at the slant he just took because I do not see what accounting really has to do with what we are talking about.

No one would ever suggest that people who are trying to pursue a profession should not be exposed to the practical side of things. I am not suggesting that law students should not be exposed to certain practices even when dealing with people who are being provided legal aid or even providing services to those people who are paying. I never suggested that. If Senator Linton was really thinking or trying to appreciate what I was really saying, he would never have gone on to a slant that was a little disappointing, the way it was put.

The thing I was drawing attention to from the outset was the difference between substance and form and I was saying that this is one occasion where the form of the thing was as important as the substance. In other words, I am agreeing that law students or any students

pursuing a profession should be exposed to the practical side or nature of the profession they hoped to practice but the point I was making then was that I was not 100% satisfied that in including the particular section in the Act, if it would not give the wrong impression and if Senator Linton cannot distinguish between the substance and form, then, again, I am very disappointed. I do not see the need to talk about accounting to try to justify a point.

Any profession, accounting, medical, etc. we must give the students the exposure whether they are summer jobs, temporary jobs or what not but you do not need in a situation where you are providing services for those people unable to do it, to include a section as specific as that. In my opinion it could give the wrong impression. That is my last word on that too, irregardless of what Senator Linton says.

SENATOR C. I. E. DEANE: Mr. Chairman, can I have another word on that and it is this. It is all right for a medical student to practice on a dead body that is already dead. (ASIDES) Oh, a living body? I beg his pardon, and it is also all right for a Chartered Accountant to bring in people with "A" Levels or whatever, but if an inexperienced defence lawyer or whatever defends a case where a man can be hung or go to jail, that is a different thing all together and I do not agree with Senator Hewitt.

SENATOR H. LINTON: On a point of order, Sir. I really cannot let that be taken out of context because no provision has been made in this Bill for a law student to go to court. They simply do not have a right of audience to go to court, Sir, and I really cannot let that go by. It is just that I do not expect that a professor of surgery at the hospital would allow a medical student to carry out a serious operation on a patient, in the same way no provision is made for law students to go to court and I have made that absolutely clear.

Mr. CHAIRMAN: Thank you for the point of explanation. Senator Barrow.

SENATOR THE HON. N. A. BARROW: Mr. Chairman, let me add my two cents, Sir. I wonder how many people have read carefully Section 2 where an attorney-at-law assigns legal services, under subsection (1), to be performed by a student, "An attorney-at-law shall supervise the provision of the services by the student".

In other words, Sir, we are not talking about a student being able to put up a shingle and go and practice law. In the law, provision is being made for an attorney-at-law in those circumstances where in his mature judgement, where in his professional judgement he deems that a student may be able to do this particular

aspect of the work to assign that particular aspect of the work to the student which I cannot see as being a great deal different from when some leading attorney in Bridgetown requests of somebody who is a student of the law and who is not an attorney an opinion on a particular point.

If I were not a very modest person I would admit to having written an opinion when I was a student and the opinion was consonant with the judgement held when the case was won on appeal. Are you going to say, Sir, that I was not competent to do the task which was assigned to me by the attorney? What we have to remember is that what we are looking at here, Sir, is not just the provision for the student to render such services but what is underlying here is the judgement and professional competence of the attorney. It is the attorney who is doing the assignment.

He assigns and the Law says that he cannot just assign it and forget about it, he assigns it and he has to supervise it. So that, according to the Law, he has to take the full responsibility for it. I believe, Sir that if we look at that because that is the governing subsection really, I think we will understand more clearly what is being attempted here.

I believe, Sir that we should also look at the practical aspect of it because of the number of instances in which the services of your legal aid clinic may be needed because of the range of services they are now providing and the number of instances in which these services may be called upon. There is distinctly a manpower problem and unless you allow persons who are trained in Law even though they are not at the level of an Attorney to work under the supervision of Attorney-at-Law. We are dealing here strictly with how practical the legal provision would be, if we really intend to offer these services. With the present situation in the legal profession, I would like humbly to submit, Sir that there is no way in which services under legal aid can be extended to the extent that this Bill proposes that there be a delivery of this service unless persons who for want of a better term may be called para legals, they are not all para legals, but let us call them all para legals could be drafted into the the action to work under the supervision of an Attorney-at-law.

I believe we must look carefully at what subsection (2) says. If we look at it, we understand that what is attempted here is not go give people a substandard service, but really to try within our resources to bring those who can make some contribution in the rendering of legal assistance all under the ambit of a properly run scheme, properly supervised by persons competent to do so.

The question that Clause 23 stands part was put to the Senate and agreed to.

Clauses 24 and 25 inclusive were called and passed.

Clause 26 was called.

MR. CHAIRMAN: Senator Boxill.

SENATOR N. W. BOXILL: Mr. Chairman, Sir, Clause 26 has me in a quandary here:

26(1) "The Director may require an applicant whom the Director considers to be financially able to contribute towards the costs of the services to be provided for him to pay such portion of those costs as the Director may specify."

I hope the introducer of this Bill would listen when somebody gets up to ask a question, Sir. What I would like to know, Sir is this, what happens if this person looses his case, goes to prison and refuses to pay? There is no provision here for what is going to happen to this fellow. I would like to know if you are going to lock him up again. I wonder if the Honourable introducer of this Bill could tell me what would happen.

Mr. CHAIRMAN: Senator Trotman.

SENATOR O'B. TROTMAN: Mr. Chairman, Sir, the problem so far all afternoon is that people are not reading on. Subsection (2) says that he owes the Commissioner money.

SENATOR H. R. LINTON: I think, Sir that the Honourable Senator's difficulty is to understand what happens when a debt becomes due and owing, has not been paid and action is taken in court. There are several means of executing judgement Sir. You can summons, you can levy on his property, if he has any, there are several remedies open to the collection of debt. If he is working take out a judgement summons to pay it in instalments, but, as a rule if the person is destitute and is not working, has no property then the courts do nothing until such time as they are in a position to do so. But a judgement debt can be registered for a period of up to twelve years. We have twelve years to pursue a normal course of debt, Sir.

MR. CHAIRMAN: Senator Trotman.

SENATOR O'B. TROTMAN: The point, Sir is that Subsection (1) itself says that the Director may require an applicant whom the Director considers to be "financially able" and then, the Honourable Senator says, if he has no job, if he has no property. A man without job without property could not be financially able to contribute towards the costs of the services and therefore the question does not arise.

The question that Clause 26 stands part was put to the Senate and agreed to.

Clauses 27 to 43 inclusive were called and passed.

The first Schedule was called and passed.

The second Schedule was called.

MR. CHAIRMAN: Senator Trotman.

SENATOR O'B. TROTMAN: On the Second Schedule to the Bill, Sir, we have three amendments to which I referred earlier and I beg to move, Sir that the Schedule be now amended as follows:

Page 27, Sir paragraph 1 (a) be amended by deleting the words:

"from a panel of the names of persons nominated for the purpose"

and substituting therefor the words:

"and the nomination of".

It would now read: "Two members appointed by the Chief Justice on the nomination of the Council of the Bar Association."

The second amendment is on page 29 subsection (4), by deleting the word "chairman" and substituting therefor the words "both the chairman and the deputy chairman", so that the text now reads:

"In the absence of both the chairman and the deputy chairman, the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting."

On page 32, the first line in section 9, delete "a" and substitute therefor the word "the". There is a typographical error in the fifth line where it says "way or honorarium", it should be "way of honorarium". So we delete the word "or" and substitute the word "of".

SENATOR W. O. FRANKLIN: On page 30, Sir, in the Second Schedule, section 6(1) (b), dealing with the revocation of appointment as a member. As a matter of information, can the mover of the motion inform me who has this authority? I notice that section 7(1) that the Director can be removed by the majority of votes of the other members of the Commission, but nowhere do I see in the Bill who has authority for revocation of the appointment of other members, and I am wondering if for my own information this could be brought to my attention.

SENATOR O'B. TROTMAN: On page 28, line 5, "the Chief Justice may make such appointments to the membership of the Commission as the case requires." I believe, Sir, and I am not going to lay any claim to be a member of the fraternity, but I believe that the law acknowledges that the person who appoints is the person

who revokes the appointment, unless there is some specific arrangement for dismissing the person, then the appointment authority is the revoking authority. The Commission makes the regulations with the approval of the Minister, but that has nothing to do with appointments.

SENATOR W. O. FRANKLIN: If you look at page 27, section 1(1) (d):

"1 member selected from among the public and appointed by the Minister;"

so in a case like this, can I assure that if he is fired by the Chief Justice the Minister will appoint another person?

SENATOR O'B. TROTMAN: Absolutely correct, because that would create a vacancy, and the vacancy would have to be filled in the same manner as the original appointment.

SENATOR THE HON. N. A. BARROW: Mr. Chairman, as far as I am aware, the ordinary principle obtaining is that the person who appoints has the power to revoke the appointment. How that appointment is revoked is sometimes circumscribed or is left to the ordinary rules of revocation which normally would be that you hold appointment at the pleasure of the person appointing. It seems to me, Sir - and I really cannot peruse the Act now to see if what I did not notice before was there - but my recollection is that this Bill makes no specific provision for protecting the office of the members of the Commission, and that except where the appointment is made on advice, the appointment is made generally within the discretion of the Chief Justice, and therefore in nearly all such cases the Chief Justice is the person who appoints and who revokes.

Similarly, Sir, where the appointment is made on advice, such as the provision for the Dean of the Faculty of Law to nominate, if the Dean withdraws that nomination I believe that the Chief Justice would then have to follow that and revoke the appointment and accept the new nominee, because it is not a matter of the Dean nominating a number from whom the Chief Justice shall choose one, it is the Dean making a nomination whom the Chief Justice shall appoint; and in the case where the Minister makes an appointment, that is not a case here even of his advising the Chief Justice. As I recall it, the provision is for the Minister to make the appointment and if he makes the appointment, then clearly he seems to be the person who has the power to revoke that appointment. Unless there is provision otherwise in the Bill, it is fairly clear to me how each or any of these people may be removed from office since there is a specific formula for each appointment.

The question that the Second Schedule stand part was put to the Senate and agreed to.

On motion of Senator O'B. Trotman, the Senate was resumed and the Bill was reported as having passed the Committee with the following amendments to the Second Schedule to the Bill: on page 27 section 1, paragraph (1)(a) by deleting the words "from a panel of names of persons nominated for the purpose by" and substituting therefor the words "on the nomination of"; on page 29 section 4 line (1) by deleting the words "the Chairman" and substituting therefor the words "both the Chairman and the Deputy Chairman"; on page 32, line (1) by deleting the word "a" and substituting therefor the word "the", and in line 5 by deleting the word "or" where it comes between "way" and "honarium" and substituting therefor the word "of".

SENATOR O'B. TROTMAN: Mr. President, I beg to move that the Bill as amended be read a third time forthwith.

The question was put to the Senate and agreed to.

SENATOR O'B. TROTMAN: Mr. President, I beg to move that the Bill as amended do now pass.

The question was put to the Senate and agreed to.

SENATOR THE HON. N. A. BARROW: Mr. President, Senator Blackman's hopes to be here have not I trust completely been thwarted, but he would not be here in time and for that reason, Sir, the Items standing in his name which as I recall are Items 1, 2, and 3 relating to the Care and Protection of Children, Adoption, and Prevention of Cruelty to Children, and I think, Sir, there is another one, Item 9 which is the new Factories Act, cannot be proceeded with.

I shall accordingly move that we abandon all of these items at this stage so that they can be removed from our Order Paper so that in keeping with the new dispensation the Other Place would be able to deal with them on Friday when they meet, and I trust that members will therefore permit me the indulgence of asking that next week when we come that we take these matters through all their stages on Wednesday. Such is the effect of the latest ruling.

There is one item which had been circulated at the beginning of this morning's meeting and it is a Resolution concerning raising the Limit for Treasury Bill to \$225 million Bds. and I am asking that hon. Senators agree to proceeding with this this afternoon. It is not a matter that will require a great deal.

Mr. PRESIDENT: Is it your pleasure that this Resolution be dealt with today? If there is no objection, leave will be granted.

RESOLUTION TO BORROW FIFTY-FIVE MILLION DOLLARS BY THE ISSUE OF TREASURY BILLS

SENATOR THE HON. N. A. BARROW: Mr. President, it would take me literally about twenty seconds. Members are well aware that there are two ways in which Government spending is normally financed, this is apart from the ordinary flow of receipts but merely to keep Government spending up to certain levels, either by way of the overdraft at the Central Bank or by the issue of paper. One of the advantages of the issue of paper of course is that when the commercial banks are liquid it gives them an outlet for some of their liquidity, and I believe that everybody knows that the commercial banks at this stage are very liquid, and therefore the issue of Treasury Bills at this stage is not unexpected.

I beg to move that this Resolution be concurred in.

SENATOR N. W. BOXILL: Mr. President, I do not want to hold this up much longer, but the Honourable Introducer of this Resolution said that the commercial banks are liquid. If I am to accept what he is saying, how come interest rates are still so low?

The next thing I would like to know....(A VOICE: Too high!)

I made a mistake. When I talk about interest rates being low, I meant what you get on your deposit; I am not talking about what you have to pay for borrowing.

The next point I wanted to make is that, if earlier he said when we were dealing with the Central Bank that the Central Bank was making all this money, why then do we have to give permission to borrow \$55 million in Treasury Bills to pay off a further loan?

This is borrowing money to pay debts. If the Central Bank is so liquid as he would want us to believe, I do not see why we should have to float another loan to pay off the former debt that they had raised before. This puts us in a kind of tail spin.

You are borrowing money or at least you are trying to acquire money to pay off a debt for another one so this is one of these cases where we will never stop getting one set of money to pay off another. You are borrowing from one Bank to pay off another. It says here "of which it is deemed expedient to borrow further sums by the issue of Treasury Bills not exceeding \$55 million and whereas it is further provided by the said section by the Minister responsible for Finance may also borrow from time to time by the issue of Treasury Bills such sums as may be required to pay off at maturity bills already lawfully issued and outstanding."

Well I know and I guess the hon. introducer of this Resolution also knows that nobody makes money on Treasury Bills. I do not mind what anybody tries to tell me because when you float a loan for Treasury Bills you have to eventually pay it and who is going to pay it. You have to borrow money to pay for what you have already borrowed so you are borrowing money from the Bank to pay money back on an old-time debt which you had acquired already.

I thought that if, as the hon. member said, we have \$10 million that we have made, why not see if we can make another \$10 million and that would be \$20 million and it would be at least \$35 million left that we would have to be repaying a debt for. I do not see why we are borrowing money as though it is going out of fashion or trying to raise money from this borrowing business as though money is going out of fashion. What happen, do you expect to leave us with a heavy overhead expense when we come in or something like this?

SENATOR K. HEWITT: Just two points here, Mr. President. As the Leader intimated, the two avenues of short-term financing would be by way of overdraft facilities at the Central Bank or issuing Treasury Bills.

Now, normally speaking, as long as the commercial banks are liquid, it makes more sense to issue the Treasury Bills rather than using the overdraft financing from the Central Bank because, and I speak subject to correction, I believe that by using the facilities at the Central Bank you will be in fact creating money. There will be more money in circulation and with all the inflationary pressures or consequences that can flow from that so it is much better to utilise the funds already in circulation, if you want to put it like that, than to go to the Central Bank to increase the overdraft.

Secondly, by way of the question vis-a-vis borrowing to repay existing loans, this is nothing strange about that

in that the Treasury Bills are normally for 90 days or not exceeding 90 days and therefore there could be a roll-over situation normally but if it is an increase of the limit, then obviously it is a little more than repaying the existing debt. It is really the provision to increase that debt.

In other words, as I understand it here, it is not just borrowing \$55 million to repay \$55 million but it is to increase the authorization of the limit or the authorized limit of borrowing so it is not just a matter of borrowing to repay. It is giving the authority for the Government to borrow up to a higher level.

The question that the Senate concur in this Resolution was put to the Senate and agreed to.

SENATOR THE HON. N. A. BARROW: Mr. President, while I stated, Sir, it was my intention to move the abandonment of certain items, I did not formally do so. I therefore move, Sir, that the Senate permit the removal from the Order Paper Orders Nos. 1, 2 and 3 standing in the name of the Hon. D. G. Blackman, Order No. 9 also standing in the name of Dr. Blackman and Order No. 8 standing in my name.

MR. PRESIDENT: The hon. member is asking that the items which he has enumerated for the present be removed from the Order Paper. If there is no objection, these items will be removed at present from the Order Paper.

ADJOURNMENT

SENATOR THE HON. N. A. BARROW: I beg to move that the Senate do now adjourn until next Wednesday, May 20, at 12.00 noon.

The question was put to the Senate and agreed to and Mr. President adjourned the sitting accordingly.
4.15 p.m.