
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1981 – 86

THE SENATE

Wednesday, December 7, 1988

The Senate met in the Senate Chamber, Public Buildings, on Wednesday, December 7, 1988, at 11:15 a.m. today.

PRESENT

His Honour Senator M. deL. Jordan, (Deputy President)

Senator the Hon. Sir James Tudor, K.C.M.G., (Minister of Foreign Affairs) (Leader of the Senate))

Senator the Hon. L. V. H. Lewis, (Minister of State for the Civil Service)

Senator A. Morrison

Senator N. W. Boxill

Senator Mrs. V. C. Fraser, B.S.S., J.P., M.C.F.A.

Senator Mrs. G. L. Eastmond

Senator T. A. Prescod

Senator the Rev. Canon I. McK. Jones

Senator L. A. Ward, G.C.M.

Senator C. A. Blackman, Q.C.

Senator Mrs. P. Y. Forde

Senator J. S. Goddard

Senator Dr. L. L. Shorey

Senator the Hon. Dr. C. D. Clarke, (Minister of State for Finance)

Prayers were led by Rev. Dr. Lionel Crawford, S.C.M.

MESSAGES FROM HIS EXCELLENCY THE GOVERNOR-GENERAL

Mr. DEPUTY SPEAKER: The following is Message No. 5/1988 from His Excellency The Acting Governor-General to The Honourable The Senate. It is dated 16th November, 1988.

His Excellency the Acting Governor-General has the honour to inform the Honourable the Senate that

Her Majesty The Queen and His Royal Highness The Prince Philip have accepted an invitation from the Government to visit Barbados from 8th to 11th March, 1989, to participate in the celebrations of the 350th Anniversary of the establishment of a Parliament in Barbados.

PRESENTATION OF PAPERS

SENATOR THE HON. SIR JAMES TUDOR: Your Honour, I am commanded to lay the following:—

1. The Annual Report and Statement of Accounts for the Insurance Corporation of Barbados as at 31st December, 1987.

2. Guarantees granted under the Exempt Insurance Act, Cap. 308A, section 32 to the following:—

- (1) CCC Insurance Corporation
- (2) Horizon Property & Casualty Ltd.
- (3) IMI Reinsurance Company Ltd.
- (4) Jewel Re-Insurance Ltd.
- (5) Lawson Mardon Insurance Co. Ltd.
- (6) PPP Insurance Co. Ltd.
- (7) Professional Providers Insurance Limited
- (8) PRC Ltd.
- (9) Southern Medical Center Insurance Co. Inc.
- (10) Supermarkets Insurance Ltd.
- (11) TD General Insurance (B'dos) Inc.
- (12) TD Life Insurance (B'dos) Inc.

(13) United States Sports Insurance Co. Inc.

(14) VBH Insurance Co. Ltd.

3. The Exchange Control (University of the West Indies and the United States Agency for International Development Project) (Exemption) Order, 1988.

STATEMENTS BY MINISTER OR PARLIAMENTARY SECRETARIES

SENATOR THE HON. SIR JAMES TUDOR: Mr. Deputy President, I believe Senators would wish to record their very great pleasure on hearing of the honour recently conferred upon the Chaplain in the Independence List. I am told that this has given us all very great pleasure.

I am also assured that the esteem with which he is held by members of the Senate as well as the wide and large number of friends and associates would be uplifted by that news.

In parliamentary Chambers one does not tend to take much notice of Chaplains. They are necessary for certain formal, very important business, the business of asking God's blessings on our deliberations but, certainly, in the Chamber, the Chamber which we have borrowed for this occasion and which we are using, he is not only in a formal sense the Chaplain of the Senate, but he is also a personal friend of, I think, nearly all of us and it is in that capacity as well as the other that we wish to congratulate him.

I think it is an honour that is well deserved. He is a churchman with a very firm commitment, but he has and has had wide and varied interests in the community outside of his calling and I think that all of these interests have been recognized in connection with his honour. I am sure that members of the Senate are very glad to be able to congratulate him as I now do most sincerely.

Thank you.

(Applause)

SENATOR THE HON. DR. C. D. CLARKE: I would like to associate myself with the comments made by the Leader of the Senate. I have known the Rev. Father Dr. Lionel Crawford since my childhood days and the things which I have learnt from him, if they are no more than a minimum of two, are steadfastness and perseverance.

From a youngster, he was then still in short pants, I remember him as a member of the St. Michael's Cathedral Choir. He also served there as an altar boy and it was always his ambition to become a member of the clergy.

Back in those days there were many obstacles to be overcome and throughout them all Father Crawford per-

severed with a single-mindedness of purpose which was eventually rewarded.

He was not ordained in Barbados, I do not think. He had to go far afield to England to complete his education. Those were not easy times and I think it is a fitting tribute to the tenacity, along with his brother Harold, now deceased, as they worked together and toiled to overcome the formidable barriers which would have been insurmountable for lesser mortals.

Again, I would like to congratulate him on this most belated honour and I do hope that it will be an inspiration to many young people, who decide that there are too many obstacles and are willing to give up, that obstacles can be overcome.

I thank you, Sir.

SENATOR THE REV. CANON I. McK. JONES: I would like, Mr. Deputy President, to offer my congratulations and the congratulations of all of us here in the Senate to the Rev. Dr. Crawford for the honour that has just been conferred upon him.

I know that he has received this honour, not only for his work in the diocese and the work of the church, but he has done tremendous work in this diocese in various cures and he has brought cures that were almost from the way out back into the limelight wherever he has been — down in St. Lucy, then up in St. Joseph, St. Paul's — you name it. And he has given yeoman service to the church in those areas.

11:25 a.m.

But Dr. Crawford has also been helpful in community work and also in education, and now he is Chairman of the Queen's College Management Board which shows that his interests are not only in church work but in education in general.

He is the first Anglican clergyman that I can think of who is a Barbadian who has been given an Honour. I think I am right in saying that. There have been other clergymen who have been given Honours but they are not Barbadians. So in that regard, I am thankful that he has blazed the trail which I hope others would some time follow.

Thank you.

(Applause.)

Mr. DEPUTY PRESIDENT: I cannot allow an occasion such as this to pass without myself being associated with the statements and the remarks made by the previous speakers because I too have had the privilege and pleasure of having shared a seat on one of the benches many years ago in our primary education with the Rever-

end Father and I can assure you that those were very, very happy days indeed.

This is a very well deserved, even if belated honour and I know that Father Crawford will continue to work in the same manner as he has before.

The DEPUTY CLERK announced that that Item should have been CONGRATULATORY SPEECHES.

INTRODUCTION OF BILLS

SENATOR THE HON. SIR JAMES TUDOR: Mr. Deputy President I beg to give notice of:

A Bill to repeal the National Health Service Board Act.

Also notice of:

A Resolution to approve the compulsory acquisition by the Crown of land at Lodge Hill and Cave Hill, St. Michael for the construction of the Airport to West Coast highway.

Mr. DEPUTY PRESIDENT: Let it be recorded that this Bill has been read a first time.

PUBLIC BUSINESS

RESOLUTION TO APPROVE THE VESTING IN THE NATIONAL HOUSING CORPORATION OF THE PARCEL OF LAND AT WALKERS, ST. GEORGE, MAINLY FOR HOUSING PURPOSES.

Order No. 1 was called – To move the passing of a Resolution to approve the vesting in the National Housing Corporation of land at Walkers, St. George, mainly for housing purposes.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this Resolution is one of two which we have before us today in which the Crown seeks to vest in the National Housing Corporation parcels of land presently owned by the Government and which are to be used for purposes of facilitating housing development through the sale of the lots under reference.

In this instance, Walkers in St. George, Government presently owns, having acquired some 2.851 hectares of land for the construction of the new St. George Primary School and for housing development. Of the total area acquired 1.649 hectares have been utilized for construction of the school and the remaining 1.202 hectares have been utilized for resiting some of the persons who were affected by works undertaken at the Glebe Project. In this connection some 14 house lots have been provided. And the sub-

mission for approval by Senate today seeks to vest these lands in the National Housing Corporation.

I beg to move that this Resolution, as presented do now pass.

The question that this Resolution do now pass was put to the Senate and was agreed to.

RESOLUTION TO APPROVE THE VESTING IN THE NATIONAL HOUSING CORPORATION OF THE PARCEL OF LAND AT OXNARDS, ST. JAMES, MAINLY FOR HOUSING PURPOSES.

Order No. 2 was called – To move the passing of a Resolution to approve the vesting in the National Housing Corporation of land at Oxnards, St. James, mainly for housing purposes.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, the Crown in its right of Government acquired compulsorily some 0.44 hectares of land at Oxnards, St. James from the estate of the late Dr. A. W. Trieloff. This acquisition was pursued in order that the Crown might receive certain taxes due from the estate of the late Dr. Trieloff. And this was one of two properties which were used to offset the settlement of outstanding Land Taxes and other debts owing by the estate.

The other property is at Bay Street being land of 3 580 square feet together with a building and that property is being used as Government office accommodation.

However, it is proposed that the lands at Oxnards be used for the expansion of the West Terrace Housing Development. And this Resolution seeks to vest those lands in the National Housing Corporation.

I beg to move that this Resolution do now pass.

The question that this Resolution do now pass was put to the Senate and was agreed to.

PRIVATE MEMBERS' BUSINESS

Item No. 5 was called – To move the passing of a Resolution that the Land (Adjudication of Rights and Interests) Regulations, 1988, and the Land Registration Regulations, 1988 be not approved.

Mr. DEPUTY PRESIDENT: Senator Blackman.

SENATOR C. A. BLACKMAN: Mr. Deputy President, in July these Regulations were laid in this Chamber at which time I gave notice of a Resolution that they be not approved and I should like to elucidate the reasons for that motion.

Since giving notice of the Resolution however, Sir, the Regulations have in fact appeared in the Gazette and are being acted upon, in that the Land Registration Act has been brought into effect from the 8th of September. And I think that there was some hiatus in terms of the motion given in this Honourable Chamber on the 27th July and an absence of communication with the relevant Ministry in that they proceeded to have them promulgated notwithstanding the motion having been given.

Sir, the primary objection I take in the Regulations is in relation to the Land (Adjudication of Rights and Interests) Regulations, Rule 6(2).

11:35 a.m.

In relation to the Land (Adjudication of Rights and Interests) Regulations Rule 6(2), there is a provision that reads: "Notwithstanding paragraph (1), payment of first registration fees or application fees may be made by CERTIFIED CHEQUE" and this in caps, and a similar clause is at Clause 9(2) of the Land Registration Regulations.

Sir, the reality is that in practice those of us who deal with Government departments, law firms and Attorneys-at-law are accustomed to dealing with their cheques without having them certified by the bank. In fact, Sir, the Financial Audit Rules provide at Clause 43 that a cheque shall not be accepted for payment of revenue and other monies unless in the case of a private cheque it is certified by the bank on which it is drawn, or the drawer is personally known to the officer receiving the cheque, and (b) is a cheque issued by a bank or drawn by a wellknown company or firm in which case such cheques may be accepted without being certified.

I have been advised, Sir, by a much senior and wiser counsel than myself that if you provide in regulations of this type specifically that you must take a certified cheque, it over-rides the provisions of the Financial Audit Rules of 1971. We had a situation in the Caribbean, Sir, in Jamaica within the last year where the Stamp Duty Commissioner faced with a similar sort of enactment before him decided that, against all he had done for many years, he was not taking a cheque from a law firm. He required that they must have it certified by the bank and the law firm said "No, we pay you thousands of dollars every day, why do you insist on this amount this time!" He said the law had said so. So that particular firm acted in this way. He did not take a certificate. He went to the bank and withdrew the required amount of money in cash in small denominations. It took two Brinks trucks and several guards to take the money in and when the Stamp Duty Commissioner was confronted with this amount of cash, he started to object, and he rang the Attorney General's office who advised him that since cash was tendered, it was the legal tender of the country and he had to accept it. They worked up to six o'clock that evening and were making mistakes. Eventually the Bank of Jamaica provided

assistance and two days later the money was counted. The end of it was that the Stamp Duty Commissioner ceased making a demand of that kind.

I have been told by the Registrar of Titles, Sir, that there is nothing to require law firms to have their cheques certified. It is my experience that when you deal with a Government department, at the level where the money is being received occasionally you come across an individual who is going to take it upon himself or herself to say that the law says a certified cheque. "I want a certified cheque and I don't care who you are." The end result is that the Registrar will not be there to give another direction and in my view, Sir, (and it is a view I have been advised on,) as the law stands the Registrar of Titles is not protected, because whereas the Financial Audit Rules gives him an out in terms of a cheque from someone who is personally known or a well known company or firm, if the law now says take a certified cheque, that is what he must do. So it is in his own interest that I move that the regulations in the terms of these two particular sections be struck, so that commonsense will prevail.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I have had some discussion with Senator Blackman, on these matters. I believe that in situations where there is an existing law which takes care of arrangements for receipt of public monies that any subsequent legislation should stand on all fours with it. I therefore have given an undertaking that I will seek to have the regulations examined with a view to ensuring that there will be no conflict between what is provided in the Rules made under the Financial Administration and Audit Act and those which appear within these regulations.

It seems to me that there should be consistency and whether the answer is to strike the precise requirement for a certified cheque or to substitute for it that the collection should be taken in accordance with the existing Financial Administration and Audit Act which should be a simple amendment, whichever is the solution is the one that we should seek to follow. So I should like to move that further consideration of this matter be deferred in order that that action be pursued.

SENATOR A. MORRISON: Mr. Deputy President, whereas I have noted the remarks made by Senator Blackman and the Leader of Government Business, and have no quarrel with them, I should just like to make a few observations as regards having certified cheques. I know that the practice obtains in the Customs Department of this country where the Comptroller of Customs has the right to have cheques certified by certain companies, even though the Financial Rules are in existence as quoted by Senator Blackman.

I do not know the reason why this particular clause has been put in these particular regulations, but the reason for having certified cheques in some instances has been that

in years gone by the Comptroller of Customs was not able to recover certain duties payable by certain companies because the cheques eventually bounced. We can look at this again but I would hope that in looking at it we do not in one wave of the hand give these concessions where anybody can bring a cheque to Government and eventually it is taken and then we hear that there is no money there. It is true that the legal profession have their own Act which governs the work as regulations of Attorneys-at-law and they have their means of disciplining their own people, but I have known from experience where cheques were paid by the Registrar of this country for compensation to the families of people who had been killed and those monies never reach the beneficiaries.

It is also in the Supreme Court Rules where you have to pay money to the legal representative of those people when they go to the Supreme Court. The Registrar is bound by the rules to pay money to the Attorneys-at-Law who represent certain people in litigation especially in compensatory matters, and I have known of several instances where those monies were paid according to the Supreme Court Rules and the monies never reached the recipients. This is a fact. But the rules bind you. I am only saying these few things, Sir, that when we change this thing, it is true that barristers and Attorney-at-Law will be able to pay their cheques in the normal way, but I do not know what prompted the draughtsmen to include that in these regulations. So I figure it should be looked at carefully, and bear these remarks in mind. We can have cases where people who are well meaning and well-known companies, issue a cheque that bounces.

11.45 a.m.

This is not anything unusual, Sir. It happens sometimes. It does not reflect to the detriment of the legal profession anyhow, because one bad egg does not spoil the whole company of people in that profession. It is with that in mind, Sir, that I have risen in order to make a very small contribution to this area of certified cheque. I do not know what prompted the idea of the draughtsmen in the AG's office or what was in the AG's mind that he put in that you should pay by certified cheque. But there are a lot of people who were to receive money under the old time Workmen's Compensation Act. I know a man got killed at the Mental Hospital years ago. He left eight children and his wife was to receive at the time \$10,000 one way and then the rest in instalments and she never received one cent up to this day. Because the solicitor at the time whenever he got money he just could not write the cheque to the recipient; and the Registrar of the Supreme Court continued to pay cheques to that solicitor because he was bound by the rules and we all work by the rules, Sir. The rule says that I cannot pay a cheque to the litigant himself. I must pay the cheque to the solicitor or his lawyer or the Registrar of the Supreme Court. I refused as an Accountant at the Registrar's Office to endorse any cheques to that particular solicitor and the Registrar would do it himself or somebody else. Because when we were paying out money

at that time, the money did not reach who it should go to. So I was finished with that. So I hope that we examine this area of certified cheques very carefully and find out the reason why that was put into those Regulations in this particular instance, Sir. With that particular remark, Sir, I thank you for your indulgence.

SENATOR THE HON. DR. C. D. CLARKE: Mr. Deputy President, I would like to make a few observations in this area. Barbados is now emerging as a modern economy and demand instruments constitute the major part of our money supply. Not to recognise this would be to retard the growth of trade and the transactions of business. I am not unmindful of the problems which we do have with irresponsible people and organisations issuing cheques for which there are no good funds. I think this problem could be solved adequately by means of, as other countries have done, imposing severe penalties on people issuing false cheques having given them some period of time for which to make good and a new cheque should be written. But I do think it would be a retrograde step if we should insist in all instances that we have certified cheques in which to transact our business.

I know from time to time I have had problems trying to issue a cheque to various Government agencies, not that I have ever bounced a cheque in Barbados or anywhere else for that matter. But I have been told to go and pay cash or do something like that. This presents many problems. One, if people suspect you are carrying large sums of cash then, of course, you become a target. So I do think that as we put these things together we cannot have modern trade conducted in this archaic way of having people go to a bank which takes time to queue up and have them certified cheques. If it is necessary, we must reinforce the penalties for people who fail, or who attempt to subvert the system, but we should not really shackle it. I do share the concerns of my colleague, Senator Morrison, but I do think we will be doing a grave disservice to the development in our own economy to ask us to revert to this system.

Mr. DEPUTY PRESIDENT: Senator Blackman.

SENATOR C. A. BLACKMAN: Mr. Deputy President, in the light of the undertaking given by Senator Lewis that the matter be looked into, I accept that the matter be deferred and I look forward to the matter being looked into expeditiously so that it would not lag inordinately. I am obliged to you, Sir.

LAND ACQUISITION ACT CAP. 228

Order No. 3 was called - To move the second reading of a Bill to amend the Land Acquisition Act, Cap. 228.

SENATOR C. A. BLACKMAN: Mr. Deputy President, Members will recall that at various times in the past 2 years I have raised questions in this honourable Chamber with respect to payment of compensation under the Land Acquisition Act. Indeed, Sir, there is an outstanding question on the matter of reports on land acquisition which I gave some 9 months ago where I was inquiring of the parcels of land acquired between July 1984 and June 1987 and the number of unsatisfied claims for compensation for that period.

Sir, the purpose of this amendment is to require the Minister to lay in Parliament annually a report of all lands compulsorily acquired by Government during the preceding financial year and state whether compensation was paid, the date of payment, and where not paid the reasons for non-payment. The duty is charged upon the Chief Land Surveyor to prepare a report within 6 months after the financial year and submit a report to the Minister who will then lay that report in Parliament.

Sir, during the course of this calendar year some 11 parcels of land have been compulsorily acquired. I had this record as a document circulated by the Clerk of Parliament. I have no information as to the period before this. But what I do know, Sir, is this, that inordinate delays attend the settlement of compensation. Indeed, Sir, when we met here at the end of July, Senator Lewis in the course of a speech dealing with 2 matters that were being formally dealt with referred to a matter that has been going on since 1979 in one instance and another from about the early part of the 1980's. The problem, Sir, is that Government publishes a Section 3 Notice and enters and takes possession and goes on with the work, and then get around at their own good time to payment of settlement of compensation. It has been my experience, Sir, from service on a couple of Statutory Boards that it focuses the minds of the public officers very, very critically to have to submit a report at the end of the financial year to Parliament. Because sometime before the end of the year they look around and see what have we done and what we have not done so that they will have a meaningful report to submit and if not it is going to raise questions.

I think, Sir, the purpose of this amendment which is a very simple one indeed, Sir, is to require Government essentially to just look and report to us on what lands they have acquired and whether they have paid people for it. I think, Sir, the matter is non-contentious and is in the public interest, and it is one that I do not think could in any way redound to the discredit of the Government if this report is in. Indeed Sir, I have a recollection that just after the Democratic Labour Party won the Government in 1986 the late Prime Minister Barrow in an interview with one of the media mentioned the matter of land acquisition and non-payment as one of

the things that was of concern to him, and he said on TV that he advised anybody who felt aggrieved to sue the Attorney General. Some of you may recall him making that statement.

So I would like to think, Sir, that at least I am in reasonably good company in having that concern and that this will be dealt with in this way, Sir.

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

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

11.55 a.m.

SENATOR THE HON. SIR JAMES TUDOR: Mr. Deputy President, I think that none of us has any problem in general with the sentiments or with the arguments propounded by the Honourable Senator. Indeed it is a matter which arouses support I think on both sides of the Senate. However, institutionally I do not think that we ought to proceed any further with this Bill until the constitutional authorities have had a chance to look at the implications for the Crown, if any, in it. I am not saying that there are, but they ought to have freedom of manoeuvre to look at it further.

I therefore say that having accepted in principle, by not contesting the Second Reading, I should like to say therefore that I think it proper at this stage to recommend that we go no further, but to move that further consideration be postponed.

I so beg to move.

Mr. DEPUTY PRESIDENT: There being no dissenting voices, we shall adopt that course of action.

Order No. 4 – Bill to amend the Limitation (Public Authorities) Act, Cap. 206.

SENATOR C. A. BLACKMAN: Mr. Deputy President, this Bill, too, is a simple amendment which, in my respectful view, Sir, is really essentially non-contentious and in the public interest.

Sir, in 1955 the Government of Barbados enacted legislation to limit the period of time within which an action may be brought against the Crown and the public authorities of this island to one year from the occasion on which an action arose or might have arisen. This puts the Crown in a slightly different position from that of other subjects of this country.

If, Sir, you should come to my office and suffer an injury, you have up to a period of three years within

which to bring an action against me and my firm. However, if I suffer an injury in any Government property, or an injury is caused to anyone, then that action must be brought within a year of the injury arising, or if you are a person on disability, being an infant or someone who is mentally incapacitated, within a year of determination of that disability. So if you are minor, say age 15, you have up to the age of 19 to bring your action, and that is the only exception in terms of the time.

Sir, this limitation period of one year has on occasion caused hardship in Barbados. I know of someone who suffered a fall in the Post Office and the nature of the fall was such that it was latent, the problems developed at the expiry of the year, but within three years, but by that time it was statute-barred.

There has been a case where someone in a Statutory Corporation had a bag of onions fall on them and again the problems surfaced at the expiry of the year and therefore that became statute-barred.

The purpose of the amendment, Sir, is to put the Crown on all fours with the citizens of the country where the three year rule will apply to both Crown and subject.

Aside.

SENATOR C. A. BLACKMAN: Reduce it to a year for both? It is not in the people's interest to limit it to a year, because the nature of some problems is such that they do not become manifest within a year, and it certainly is consonant with what is happening elsewhere. In fact, Sir, when I did my research into this I was surprised to find that when we were enacting a one year law in Barbados in January 1955, six months earlier, in June 1954, England had repealed that one year Act and made it three years, so we are 34 years behind the times. Ever since June 1954 England has gone to putting the Crown and the citizen on an equal basis. When we enacted the law in 1955 we went back to the law prior to what it was in England in 1954, and I think that in 1988-89 we should get with it. Let us put the Crown and the subject on an equal footing so that there is not this hardship.

There is another thing that has happened, Sir. One of my colleagues in the profession, one of the practising attorneys, acting on behalf of a client who suffered an injury, started to negotiate with the Government Department and things went on and they started talking in terms of numbers, and then there was a silence from the Government Department. When the attorney called up and said "I have not heard from you recently. Where does this matter stand? They said "Oh, we are not worrying about this any more, the year has run out." Now, that is immoral.

I think the attorney might still have an action, because if correspondence has been entered into it amounts to an acknowledgment, but with the law as it is written they would have to rely on a Judge who is going to take a broad view of the matter. If the point is pleaded as to statute, it is statute barred, and that, I am afraid, is how the law stands. I think in those circumstances we could put a case where the Crown might have to come and make an *ex gratia* settlement and vote funds.

I do not think we should rely on *ex gratia* principles or sympathy to deal with these issues. I think the law should be changed to make it clear that we all have equal places, that if I have an action against Senator Ward for three years I should have an action against the Crown with whom all of us have a dealing in one way or the other. The Transport Board, the Queen Elizabeth Hospital, you name it, we all come into contact with agents of the Crown every day of our lives in some way or the other.

Sir, for these reasons and, as I said, I think it is a matter which is in the public interest, I will urge support for this and I move that this Bill be read a second time.

SENATOR THE HON. SIR JAMES TUDOR: Mr. Deputy President, I find myself in a vastly different arena on this Bill than I did with the one before. The one which the Senate has just, quite properly in my judgment, given a Second Reading to, I saw no cleavage of principle and I was able to accept that. With this one, quite frankly I do not understand all the implications and I believe that as a Minister of the Crown, where the rights of the Crown are likely to be reduced, amended or diminished in any way, I ought to reserve my judgment.

12.05 p.m.

I see the principle upon which the Honourable Member is basing his argument and subject to confirmation by the authorities who should judge these matters that no great point of principle is involved, or indeed more importantly, that the rights of the Crown are safeguarded in this matter, or that the Crown itself with this legislation would not be at a disadvantage beyond what it would normally be, I think perhaps I would like to suggest to the Honourable Senator that we do not proceed to a second reading, but we would prefer to postpone consideration of this because I certainly could not recommend acceptance of it at the second reading stage, because I think there are implications. I know that the argument that the Crown as a matter of law should be in no better position than a subject is a good one, but there are implications arising out of that principle which I would prefer to see studied; and quite frankly I do not fully understand and would like to hear the law officers of the Crown particularly the one functionary who is

supposed to advise the Crown on these matters, the Attorney General, on it. So in this particular setting I would not like to have to proceed to a second reading, and I say this without prejudice. I just do not understand all the implications, so if the Honourable Member would allow us to move the postponement of further consideration, I would be happy to do this.

SENATOR THE REV. CANON I. McK. JONES: Mr. Deputy President, I have heard that there were differences in time limits as far as the Government and the private citizen were concerned, but from the argument put up by Senator Blackman I cannot see how they can be faulted. I do not see, for example, why the state should have more, should I say, charity shown to them than to the citizen. As Senator Blackman said, there are instances where people receive injuries and these injuries do not show up within a year. They take a longer time than a year to show up. I know of three instances of this, so that if you are going to tell me that it is perfectly right for Senator Blackman to get injured in my home and he has three years in which to get at me, and if he gets injured in an office of the Government or in the Senate and he only has one year, I cannot see that to be right in any kind of way, and I do not know whether we understand it or not. To me it is basically wrong. Why should the Government have only one year in which you can get at them but as a private citizen you have three years in which you can get at him? I could never subscribe to that, I don't mind what the Attorney General or anybody else says.

SENATOR N. W. BOXILL: Mr. Deputy President, I am not a lawyer, but we laymen are the people who really make the law, and the lawyers interpret the law. I really cannot support Senator Jones on this matter because in dealing with the law I cannot use the exact words I would like to use in the Senate. Now a case would look clear to you in law and then for some unknown reason you hear that the person has got off because of a technicality in law or because of a point in law and this kind of thing. You see, law and fact are two different things altogether. That is the thing about law. There is law and there is fact. According to the law here, this was changed, as Senator Blackman said, in 1955. Why, I do not know.

I am in sympathy with Senator Blackman's proposals and what he has said, but at the same time I have to agree with the Leader of the Senate that we cannot accept it, not that we feel he is wrong, because right now I feel the Senator is right, but I am no lawyer, and there is a technicality in law. We may sit down in here as law makers, — but we are not law interpreters — and make a fundamental change in the law without being conscious that we are making it, and that is why you should send things to the Crown Law officers to get these things to make sure that everything is all right.

Now this thing has been around every since. It is true that Senator Blackman was not a Senator ever since. This is no excuse either for it being there, but what I am saying is that although I agree, I do not know for the others, with what the Senator is saying, at the same time though we want to agree, we do not want to go and commit ourselves to something where we might look stupid, or hear that we have come here and passed legislation that the lawyers start to laugh at. Even Senator Blackman might turn around when somebody points out something else to him and laugh and say he did not recognise this. So we cannot decide these things on our feet. These things we have to study most carefully.

Now I have just sent part of the law over to Senator Blackman which says in paragraph 4 of Cap. 206 "Limitation of Public Authority", and it says, "Where, on the date when any right of action accrued for which a period of limitation is prescribed by this Act, the person to whom it accrued was under a disability, the action may be brought, subject to this section, at any time before the expiration of one year from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired."

What I find to be a bit reprehensible is the part that Senator Blackman alluded to that if you start negotiations between two people, the defendant and the complainant, as far as I am concerned, if you start proceedings against the Government and after a year somebody tells you that a year has gone and therefore they have finished, I think you are looking for somebody to get their hand or head taken off. That does not sound right to me. You get your back hurt and you get a lawyer and start negotiations with the Government and then somebody tells you — because you know what back pains are — that you started that but the time has passed, do you realise what is the situation?

Sir, I am in sympathy with the whole business, but at the same time we cannot — not that we do not want to agree — agree in toto and when we go before the Crown Law Officers they tell you that this was put in because of so and so. So I agree with the postponement, not because somebody wants to frustrate you, not me at least. I do not believe that anybody on this side wants to frustrate you, but it is law, and as I pointed out to you, law and fact are two different things. You will win a lot of cases on law that you lose on fact. Am I right or wrong? So I just want to draw this to the attention of the Honourable Members on the opposite side, and I want to say especially to my good friend Senator Jones that despite what he was saying, we have to wait and I hope we will not be waiting until next year to get this thing through. We will get it through as quickly as possible.

SENATOR MRS. V. C. FRASER: Mr. Deputy President, I should like to endorse the sentiments of Senator Boxill and to hope that this matter be dealt with expeditiously because of the problems that are inherent in a situation of this kind. There are examples that I can bring to mind of a particular person working with a Statutory Board and this is quite a number of years now that that person has been suffering from back injuries, and they were told that everything has to be wrapped up in a year. It was after a year that the person started to get very serious problems and had to go abroad and see various specialists and things like that. So it means that if you have to go abroad after that period of time, your money has to be spent or the money of somebody else who is going to help you if it is to be done before a year or in a year's time.

12.15 p.m.

I agree with Senator Boxill that we are not claiming, in any way, to be members of the legal profession but I sincerely hope that when legislative matters of this kind, or matters to be legislated go to the Crown Law Office — I know that there is a problem with staff and all this but, for goodness sake, I think that we the citizens have to wait a bit too long for some of these things to see them as law and they are very important things.

I feel that no taxpayer should be annoyed if that office is spruced up with staff. I feel we should welcome them. We should search for the Barbadians abroad who have these qualifications, entice them and entreat them with good salaries to come back home because we need them and if we do not get them, all the legislation we sit down in here and we discuss and we hope that it will be passed, nothing will be done so I think that this matter should be treated with great priority.

It is all right to say you cannot get them but there are a lot of people who want to come back home. They do not so much worry about the big lot of money. They will come back home if the conditions are right, if you offer them some "perks" that they do not have to pay taxes on. Fellows prefer the "perks" to the salaries because with the "perks" they do not really have to pay taxes.

I think we need to do this because there are many matters, not only this matter today, but many, many matters that we are waiting for legislation on and it is really too slow a process.

I remember things that we have put and 4, 5 years pass and nothing has been done. The reason, as they say — staff and money. So I hope that will be looked at very expeditiously and very soon we will be able to

hear that a lot of the legislation that is, perhaps, in the archives would be pulled out for the benefit of the people of Barbados.

Thank you.

SENATOR C. A. BLACKMAN: Mr. Deputy President, my interest is having the matter resolved and put on the books and, really, in the light of the point taken by the Honourable Leader of the Senate where he has not had the advice of the Crown Officers, I am obliged to defer.

However, Sir, I would remind the Honourable Leader of the Senate and Honourable Senators that it is six months that I have given notice of this Bill and I would like, Sir, that another six months would not elapse before it comes back before our attention.

I do not want to dissipate the goodwill which I have engendered for this debate but I do think that there is an inordinate delay in dealing with these items. It has been six months that these two matters have been here and the previous matter which we dealt with earlier is nine months old. If any of the ladies in this Senate were still of childbearing age they would have had a baby by now, Sir, and I really think that we ought to really address these matters more timely than in this way, Sir.

I accept the motion for further consideration but I hope that will not be for an inordinate time.

Mr. DEPUTY PRESIDENT: Further consideration of this Bill will be, therefore, accordingly postponed in order to give the appropriate authorities time to give some further consideration to it.

ADJOURNMENT

SENATOR THE HON. SIR JAMES TUDOR: Mr. Deputy President, I think that concludes both public and private business for today's sitting.

Mr. Deputy President, there is a consensus, not easily arrived at, that we should meet for the last meeting of the year on December 21, 1988 because there are some matters coming to Cabinet and to the Other Place next week which will need expeditious attention.

I, therefore, beg to move that the Senate be adjourned until Wednesday, December 21, at 11.00 a.m.

Sir, in moving this motion, while I am on my feet, I would like to express my own personal and very deep gratification to members of the Senate, all of them here and, I think, five of them not here, who have in various ways sent me kind remembrances and best wishes for my recovery when I was ill.

It was very gratifying to receive those messages and I have every reason to believe that the prayers and wishes of Honourable Senators, among other things, have assisted my recovery and I wish to express my personal gratitude to all Senators both here and absent for their kind remembrances.

Thank you, Sir.

The question that this Senate do now adjourned was put and resolved in the affirmative without division and Mr. DEPUTY PRESIDENT adjourned the Senate accordingly.
12.25 p.m.