

THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1986 – 91

THE SENATE

Wednesday, June 15, 1988.

The Senate met in the Senate Chamber, Public Buildings at 11.15 a.m. today.

PRESENT

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

Senator the Honourable L. V. H. Lewis, (Minister of State for the Civil Service) (Acting Leader of the Senate);

Senator A. Morrison, (Parliamentary Secretary, Prime Minister's Office);

Senator N. W. Boxill;

Senator D. A. Comissiong;

Senator Mrs. V. C. Fraser, B.S.S., J.P.;

Senator Mrs. G. L. Eastmond;

Senator A. J. N. Phillips;

Senator T. A. Prescod;

Senator L. R. Tull, Q.C.;

Senator J. C. W. Wickham, M.B.E.;

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

Prayers were led by Rev. Dr. L. A. Crawford.

Mr. DEPUTY PRESIDENT: This Senate is now in session.

PRESENTATION OF PAPERS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I am commanded to lay the following documents.

The National Insurance and Social Security (Non-Contributory Old Age Pensions) (Amendment) Regulations, 1988.

The National Insurance and Social Security (Benefit) (Amendment) Regulations, 1988.

The Annual Report and Financial Statements of the National Petroleum Corporation for the year April 1986 to March 1987.

The Public Holidays Order, 1988.

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

- (1) Braeside Limited
- (2) Carlyle Insurance Company Limited
- (3) Commercial Acceptance Insurance Co. Inc.
- (4) Community Insurance Trust Limited
- (5) Excess Reinsurance, Ltd.
- (6) Fencourt Reinsurance Company (Barbados) Ltd.
- (7) Financial Indemnity Company Limited
- (8) Great Western Assurance Company Ltd.
- (9) Lincoln National Reinsurance Company (Barbados) Limited
- (10) Old Fort Insurance Company (Barbados) Ltd.
- (11) Owners Protective Insurance Co. Ltd.
- (12) Pharmacia Insurance Inc.
- (13) St. Andrews Insurance, Ltd.
- (14) Transportation Reinsurance (Barbados) Ltd.
- (15) Tristar Reinsurance Company Ltd.

The Duties, Taxes and Other Payments (Exemption) (No. 2) Order, 1988.

Statement showing Net Customs and Excise Receipts for 11 months ended 28th February, 1988.

Instrument adopted at the 74th Session of the International Labour Conference held in Geneva in September, 1987.

The 9th Annual Report and Financial Statements of the Barbados Port Authority for the year ended 31st December, 1987.

The Civil Establishment (General) (Amendment) Order, 1988.

The Annual Report and Audited Financial Statement of the Transport Board for the year 1985–1986.

MOTIONS RELATING TO THE BUSINESS OF THE SENATE AND MOVED BY A MINISTER

SENATOR THE HON. L. V. H. LEWIS: I beg to move, Mr. Deputy President, that Standing Order 45(2) be suspended to permit the Senate to deal with the items on today's Order Paper.

The question that Standing Order 45(2) be suspended was put to the Senate and agreed to.

APPOINTMENT OF ACTING CHAIRMAN OF COMMITTEE

Mr. DEPUTY PRESIDENT: In the absence of the President, I would entertain from the Acting Leader of the Senate a motion for an Acting Chairman of Committee.

SENATOR THE HON. L. V. H. LEWIS: I beg to move that Senator John Wickham be invited to serve as Chairman for today's sitting.

Mr. DEPUTY PRESIDENT: There being no dissenting voices, Senator Wickham is now Chairman for today's sitting.

INTRODUCTION OF BILLS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I give notice of the following Resolutions and Bill, and request that they be noted as read a first time:

A Resolution to approve the Civil Establishment (General) (Amendment) Order, 1988;

A Bill to amend the Mortgage Insurance Act, Cap. 233;

A Resolution to approve the compulsory acquisition of land at Lancaster, St. James for the purpose of improving Highway 2A and relocating houses;

A Resolution to approve the compulsory acquisition of land at Proute, St. Thomas for the purpose of developing a playing field;

A Resolution to approve the Public Holidays Order, 1988; and

A Resolution to approve the compulsory acquisition of land at Cane Garden, St. Michael and St. Thomas for housing development and for the construction of the St. Thomas Secondary School.

PUBLIC BUSINESS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, in the absence of the Leader of Government Business, it is proposed that Senator Dr. Clarke deal with Items Nos. 1 and 2 on the Order Paper.

EXEMPT INSURANCE (AMENDMENT) ACT, 1988

Order No. 1 was called – To move the Second Reading of a Bill to amend the Exempt Insurance Act, Cap. 308A.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Deputy President, since the coming into operation of the Exempt Insurance Act, 1983–9, several representations have been made in connection with certain features of its provisions. These representations included some administrative and some legislative.

It may be recalled that the establishment of the Exempt Insurance Advisory Committee in 1986 resulted from one such amendment to this Act. Before going into the provisions for the amendment, I would like to just touch briefly on the contribution which this sector is making to the economy of Barbados.

In 1984, there were two such companies registered, in 1985 the number rose to five. In 1986, there were 37 companies; 1987, 66 companies; and to date in 1988, 15 companies. The fees collected by the Supervisor of Insurance for the years 1983–84 were \$245 000 – these are rounded figures – 1984–85, \$260 000; 1985–86, \$318 000, 1986–87, \$964 000; and 1987–88, \$1 265 000.
11.25 a.m.

The employment opportunities created by the presence of these organisations have come mainly in the areas of attorneys and accountants. There has also been a growth of management consultant firms to service these.

However, if we must continue to make some inroads and be an attractive location for such businesses, we must deal and compete with Bermuda and the Cayman Islands. As a result, we are introducing this amendment today to enable us to meet this competition head on.

Clause 2 of the Bill provides for the insertion of the definition of "holding company". The rationale given for this amendment is that it has been represented that there are significant advantages in the United States domestic law in establishing a holding company to own the shares of the exempt insurance company in Barbados. A specific advantage is the separation of the act of raising capital from that of conducting insurance business, since an insurance company directly raising capital could be considered to be doing business in the United States.

The second advantage of this proposed amendment is that the holding company structure and a guarantee were available in Bermuda and the Cayman Islands, and that Barbados would be in an uncompetitive position if we failed to implement similar legislation.

There is also provision for the establishment of management services, and section 26 of the Act provides for management services to be delivered to licensees by management companies. There is provision for a resident representative.

Clause 4 seeks to provide a solution to two problems identified by the accounting fraternity on the provisions of section 18 of the Act.

Clause 5 would make new provision for appointment of a resident representative to act on behalf of the licensee in Barbados, and (2), it will impose a duty on the resident representative to report a breach or likely breach of the solvency criteria to be maintained in compliance with section 24.

Clause 6 seeks to provide for the holding company structure as referred to at clause 2. Clauses 7 – 9 provide consequential amendments following the introduction of the holding company.

Clauses 11 and 12 seek to limit the scope of public disclosure of a licensee's affairs, but to retain the right of the Commissioner of Inland Revenue to demand information from a licensee if that information is required to fulfil the Commissioner's obligations.

Clause 13 is a bit of tidying up, and is more editorial in nature. It simplifies the language of the Act and attempts to make it consistent with that of the Companies Act.

Clause 14 provides for a transitional period for those companies that have been incorporated as

management companies prior to the availability of the holding company structure, and are required by the new provisions to apply within the prescribed time to be registered as holding companies.

Clause 15 requires the commencement date to be fixed by proclamation.

Mr. Deputy President, with that background, I beg to move that this Bill be read a second time.

SENATOR C. A. BLACKMAN: Mr. Deputy President, I commend the Minister for the background information he has given in terms of what direct contribution the exempt insurance industry is making to Barbados, particularly in terms of licence fees paid over the five years that this Act has been in operation.

There was a proposal made, which I do not see reflected in the legislation, that the Act should also have been amended to provide for a licensee to surrender its licence in circumstances where it may have determined to withdraw from doing business in Barbados. I would like to commend to the Minister that he pursue that, because there are occasions when a licensee may decide to withdraw. As the Act is now structured, a licence can only be taken away by way of a revocation, and it gives a different signal in the case of an ordinary licence being revoked, as opposed to one surrendering in circumstances where there are no adverse circumstances surrounding the withdrawal.

On a more substantive point, Mr. Deputy President, the development of our offshore insurance business is dependent on a satisfactory level of support services, generally, in the community. Last weekend, there was a reception hosted at the Insurance Corporation of Barbados, when one of the outgoing managers of a management company, in which the Government of Barbados is an investor, made the observation that Barbados' position in the offshore industry is not challenged as much by Bermuda and the Caymans and the domestic domiciles of the United States, but more by the level of services and competence displayed in Barbados. Whilst he was satisfied that the accounting and the legal professions were responding to the challenges, he was concerned that it was not necessarily met by support in certain Government institutions.

As a practitioner in the exempt insurance industry, I can speak of first-hand experience. The greatest bottleneck, as was said in the Other Place, lies in the Immigration Department. Two to six months to process a work permit application is unacceptable.

For the foreseeable future, Barbados is going to have to engage persons from overseas to do certain of the functions in the exempt insurance industry, and until

Barbadians acquire the expertise, it should be a matter of processing the applications as readily and speedily as possible. The processes in the Caymans and Bermuda, so my information goes, is not as trying.

I have an instance where someone who was working on the island with one company, an expatriate, wanted to transfer and work for another one, and it has been two months since that application is in. It was processed at one stage before. Now, in shifting employer, it is still taking two months to have the matter processed.

People are getting dissatisfied with this. It is that area that is the cause of concern. I would throw out the suggestion, Sir, that one officer in the Immigration Department be detailed to look after offshore business. Let him develop the expertise necessary and let him be able to process this thing in a speedy and timely fashion. It is necessary to cut the bureaucratic red tape; if not, we will lose out.

There are lots of attractive domiciles being created in the United States. At the last session in April, when I was away from this Chamber, I was at the RIMS conference in Washington and met the full thrust of the advertising campaign of Hawaii as a domestic captive of the United States, and Denver, Colorado. Their fees are a lot cheaper than ours, and they are going out there trying to keep business in the United States.

My other concern is that the office space of the Supervisor of the Insurance Office, as I had occasion to say on a previous occasion, needs upgrading. Also, there is a need, in my view, for the staff in that department to have the necessary expertise to monitor the information that is filed.

There are 125 companies, according to the information given to us by the Minister, each of which is required to file accounting information. I do not know how deep is the level of expertise in that department for them to really appreciate all that is put before them. You have the Auditor's Report, granted, but there is a lot of information that probably is not analysed, because the staffing is not there.

11.35 a.m.

This leads me to another point, Sir. One of the benefits of the offshore industry is the spinoffs for tourism. I am not too sure the information is available to Government really as to how much benefit is derived from the tourism angle. The Immigration Form that people complete when they come into Barbados really does not provide a framework for this sort of disclosure.

Last week I was in Bermuda, and their Immigration Form has a number of categories, six or seven, which include offshore business, international business, and you

tick the one in which you are related. That is one small way, at little expense, Sir, I suggest, to provide a statistical basis of Government's information as to why people are coming to Barbados and the business that they are doing.

The other thing I should like to raise, Sir, is that right now I am aware that persons from the Central Bank and the Ministry of the Attorney-General and Inland Revenue are negotiating a double taxation treaty with the Scandinavian countries. There is need for aggressive marketing of the advantages of doing business in Barbados in Europe and that part of the world. We already have one company out of Scandinavia, a large pharmaceutical company, for which a guarantee was granted here today, as read out by Senator Lewis. But there are others who will come if they are aware of what Barbados has to offer?

I said, I think during the debate on the Estimates, that Government must invest the time and commitment, given in the past to things like industry and tourism, by identifying a Minister who has specific responsibility for this offshore sector and go out there and promote Barbados in the same way we have done it for industrial and tourism development. At the RIMS Conference, the Minister of Finance of Bermuda Dr. Clarence James, was present throughout, and was highly visible. In fact, when the Bermuda Government hosted the reception, they took over one of the largest hotels in Washington, and they laid on a fare that we felt embarrassed to go anywhere near there in comparison to what we were laying on. And they gave it the imprimatur of the presence of a senior Minister. I feel that we must do the same if we want to compete and be taken seriously in that sector.

The profession has been waiting a long time for this Act, Sir. It has been promised for a while. And therefore I support its proposal.

The final point I want to make, Sir, relates to insurance for persons in the Caribbean who have difficulty acquiring adequate professional liability insurance or public indemnity insurance. I think, Sir, that since Barbados has led the way in this part of the eastern Caribbean with this type of legislation, it may be something that we should have explored, by a simple amendment to this Act, for a CARICOM regime captive insurance industry. The Act especially excludes CARICOM nationals from being involved in the formation of captives.

I have been talking to my colleagues in the legal profession, and all of us have great difficulty in getting reasonable cost professional indemnity insurance every year. And the premiums go up and up, because of a worldwide incidence of claims, which do not have necessarily relationship to what happens in the Caribbean,

and the idea has been mooted that we should have a CARICOM captive insurance company. But nowhere has there been the legislative framework to support it. We will have, obviously, to reinsure, but it seems to me that a lot of that money that goes out of the region at this time could be kept within the region if the necessary devices could be put in place to create a regime for a CARICOM-based captive.

I have a note from a colleague in this industry who said that they were asked to do a review for a captive for a large Trinidad outfit, but it faltered because there was no framework in Trinidad for it, and there was no framework for it within Barbados. I think that, if this is explored from a CARICOM standpoint, our commercial and industrial organisations within the Caribbean could benefit from this. I feel it is one way in which, as we have already carved out a niche for ourselves as the leaders in offshore financial services in this part of the Caribbean, we could go one stage further and create a viable framework which could be a boost to our economy and a possible source of some employment.

Sir, I support the Bill.

SENATOR J. S. GODDARD: Mr. Deputy President, I, too, rise in support of this Bill, I think the Exempt Insurance Act was a significant piece of legislation that was placed on the Statute Books in 1983. But I am a little concerned that, since that time, there have already been two certainly meaningful revisions, the first was in 1985, the second was in 1986, and this is the third, 1988. I am all in favour of updating and improving the legislation, I realise we will have to take into account what our competitors are doing, but I am hoping that this may be the final general revision for a while, because I think it must be confusing to the exempt insurance companies and for those who are considering coming to Barbados, as well as confusing to the practitioners in accountancy and law, to be upgrading, changing and keeping ahead or abreast with the latest revision. So while I compliment the Government for this revision, I am hoping that it will not be necessary to have any further meaningful revisions in the near future.

It is my belief, Mr. Deputy President, that the greatest contribution that the Exempt Insurance Act has made to our economy is in the field of tourism. Like Senator Blackman, I cannot quantify it, and I do not think the statistics are available, but numbers of persons have come to the island to investigate, attend meetings, make contacts, have meetings with the Governments and members of the private sector, and who have stayed in hotels and spent other money here. I think that has been the greatest single contribution it has made, apart from the favourable publicity it has given to the island.

As Senator Clarke has said, it has also made a significant contribution to our foreign exchange earnings by way of fees and, of course, it has helped create employment, especially in the professional areas of accountancy, law and secretarial services.

There are a couple of points I would like to refer to. Section 5 4(a) says:

"No licensee may terminate the appointment of its resident representative."

Then the following subsection says:

"... 30 days notice would have to be given to the Supervisor of Insurance."

I am just wondering as to the necessity of that. If a licensee wants to terminate the services of his resident representative, I do not see any particular merit in him having to wait 30 days or give 30 days notice. I would have thought it would have been better to terminate forthwith. That is just an administrative matter.
11.45 a.m.

Secondly, Mr. Deputy President, the fine referred to here for non-compliance seems very heavy — \$50 000. I have no difficulty with non-compliance arising as a result of malicious intent, but non-compliance can arise due to a technical misunderstanding, and it seems to me that the Bill is providing for an automatic penalty of \$50 000.

Asides.

SENATOR J. S. GODDARD: I am quoting from section 5, subsection 5. I am just taking a literal interpretation. I am not a legally-trained person, Mr. Deputy President.

It seems to me that the Bill is saying that the fine will be \$50 000, and I am saying that non-compliance can be for technical reasons rather than malicious reasons, and it is on that basis I find the fine excessive, or lacking in discretion, especially when we find, I believe, that this fine is heavier than the fine that would be attached to dealing in illegal drugs. I cannot start to equate the two sins of commission. I am not quarrelling with this amount, as I have already stated, when it comes about due to malicious intent, but I have a problem when it is of a technical nature, and then I compare it with fines in other areas that I think are far more serious and damaging to our society.

Mr. Deputy President, I am very happy to support this Bill.

Thank you.

SENATOR A. MORRISON: Mr. Deputy President, I shall make a few remarks in so far as the Immigration Department is concerned. There were some points raised by Senator Blackman. We realise that we have a problem at the Immigration Department, and the Minister has had a talk with the Chief Immigration Officer. We have been given certain instructions. At least there is a standing directive in that department about offshore and international businesses coming to Barbados as far as work permits are concerned, that they should not be delayed. And when they get to the Ministry, we do not keep them there, we send them back almost always at the same time.

But when one considers the quality of staff in that department and the method of recruitment, one will see that we have to make out with people who probably have never worked in another Government Department before. They came into the Immigration Department by various means and we have had to cope with that kind of personnel. We are hoping to upgrade as we go along. We have instituted some training, and we hope to upgrade our training methods as time goes on in order to improve the calibre of officer in that department.

We have made that a priority issue in the Ministry and we are keeping in very close contact with the Chief Immigration Officer to weed out those people who just walk about the department and do not contribute anything at all to the general work or organisation of that department. It is not a question of sending home anybody or anything like that, but of working with the best that we have at hand. There will be some improvement as the months go by from time to time.

I also take the point that Senator Blackman raised about the Immigration Cards. I shall pass on that information to the Chief Immigration Officer.

There is not much more I can say now about that department. The points are taken in good spirit, and we are going to do our best to have the Immigration Department function not only in the work permits area, but also in the other areas which are very crucial to the name of Barbados.

The Immigration Officers meet these people first when they come to Barbados, and how they behave and conduct themselves at the airport and seaport also gives stories of a very good name. They can be ambassadors for Barbados and they can help in the tourism drive. They must be able to process people in a very mannerly fashion and give people the kind of information one would expect of a public officer on duty.

I think the amendments are very meaningful, and hearing the speeches of the two speakers on the other side, and the Minister, I, too, would like to support these amendments to this Act.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Deputy President, in response to Senator Blackman, I would like to assure him, and this Chamber, that we are now in the process of strengthening the office of Supervisor of Insurance, and this should go a long way towards resolving some of his problems.

On the contribution of this sector to tourism, we are not unmindful of the significant contribution that it is making. Unfortunately, at this time we are not in a position to quantify it, and I am quite sure that if I had gone down that line, I would have heard from Senator Blackman, asking me, 'How?' But we, too, are cognisant of the contribution of tourism.

On the question of the forms, it is a tricky one really. When people are coming to the island, they are somewhat leary about the information they give and how they give. We understand that it would help us to collect the necessary and meaningful statistics if we could get this information out of them. But on the other side, we must weigh the inconvenience which we might be asking visitors to the island to endure in going through the forms. Those are the two things we have to weigh.

I understand Senator Goddard's concerns about the three changes which have come about so far on the amendments. But it is a dynamic area, and although we hope that we can cast a stone on no more amendments, we cannot guarantee that at this time. What we will do is ensure that we keep our legislation up-to-date and competitive with the other people in the field.

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

On the motion of Senator the Hon. Dr. C. D. CLARKE, Mr. DEPUTY PRESIDENT left the Chair and the Senate resolved itself into Committee on the Bill, Senator J. C. W. WICKHAM in the Chair.

COMMITTEE

Clauses 1, 2, and 3 were called and passed.

Clause 4 was called.

SENATOR THE HON. Dr. C. D. CLARKE: I move that clause 4 stand part.

SENATOR C. A. BLACKMAN: Mr. Chairman, I would like to make an observation on this clause in respect of some of the comments raised by Senator Goddard during the second reading speech. It is that many of the amendments made to this Act have been as a result of a consensus made by the Exempt Insurance Committee, on which the accounting and legal profession sit. The upgrading of the legislation really is something

that has been sought by the profession and not something that has been imposed by Government.
11.55 a.m.

It is recognised that in the evolutionary stage, at which this sector is, changes will be necessary, and I think I can give the assurance that it is not perceived that we do not know what we are doing, but that we are responding to the changes that are necessary. Although Bermuda is in advance of us, it does not have an Act like this. Virtually every company has to be incorporated by a Private Member's Bill through Parliament, so, in some respects, we are superior to what is happening there. The Cayman Islands have a very broad-based Act.

I only wanted to say that these proposals are proposals which the people involved in it, the players in the game, have asked for, and therefore are welcome and supported.

Mr. CHAIRMAN: Before I put the question, I will give the Chair's view on Senator Blackman's intervention.

The Committee stage is the stage where you address, clause by clause, the specific details of the Bill, and it is my opinion that Senator Blackman's intervention was more in respect of the general nature of the Bill, which properly belongs to the second reading speech.

The question that clause 4 stand part of the Bill was put to the Senate and agreed to.

Clause 5 was called.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Chairman, I move that clause 5 stand part.

SENATOR J. S. GODDARD: Mr. Chairman, it seems to me that subsection (5) of clause 5 is so specific. It says:

"A licensee or a resident representative that fails to comply with the provisions of this section is guilty of an offence and liable on summary conviction to a fine of \$50 000."

That seems to me to be very specific, very precise. In view of some other comments I heard when I spoke earlier, I am wondering whether that is really the intention, or whether the intention is a fine not exceeding \$50 000.

SENATOR C. A. BLACKMAN: Mr. Chairman, in respect of subsection (5) of clause 5, I think the general practice is that this is how all penal sections are worded in legislation, and that a court, having this matter before it, cannot impose a fine greater than \$50 000, but it can

be a fine less than \$50 000. This is the way how the Interpretation Act will apply to matters of this kind.

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

Clauses 6, 7 and 8 were called and passed.

Clause 9 was called.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Chairman, I move that clause 9 stand part.

Mr. CHAIRMAN: May I say a word. I have just overheard Senator Boxill making some comments on our conduct of the Committee stage of this Bill. Senator Boxill had arrived at this debate late, and, therefore, was not here to observe or pay attention to how the Bill was conducted in its Second Reading stage. For his information, therefore, I will point out that I am deliberately conducting this Bill clause by clause so as to give members the opportunity of paying close attention to each clause. Already we have had two products of this method.

The question that clause 9 stand part of the Bill was put to the Senate and agreed to.

Clauses 10 and 11 were called and passed.

Clause 12 was called.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Chairman, I move that clause 12 stand part.

SENATOR J. S. GODDARD: This seems, Mr. Chairman, a little confusing to me, in that section (a) reads "152, 175(4) and 371 of the Companies Act and the Income Tax Act relating to," etc. To me, it could be interpreted that they are identical section numbers of both Acts, and I do not believe the Income Tax Act goes past 90-odd sections. I think it should be sections 152, 175(4) and 371 of the Companies Act. There should be a comma, or some break there.

I just bring that to your attention, Sir. It seems to me that they are referring to the same sections of two Acts, and I do not think that is the intention.

SENATOR C. A. BLACKMAN: I have no problem, I read it in the way that I learned to read these things and it is quite clear to me. But I have a concern with subsection (b), and that is the Commissioner of Inland Revenue making demands to fulfil obligations under any agreement made between Barbados and another country, etc.

I hope that, in the exercise of this power, the Commissioner will not be acting under any duress from any external agencies, but will do it with regard to due process.

This section is really the thin edge of the wedge, Sir, in some respects, and I have some concerns about this, because people have been attracted here because of certain regimes and assurances, and if the Commissioner can come around the corner and make demands to give information that otherwise they could not get, I see a problem. And over the page there is also the point raised earlier about the fines, and this is more perhaps where someone may have a reasonable demand.

I have not checked the Income Tax Act, in any detail to see if there is a resort to the law courts. If the Income Tax Act is deficient in that respect, I would want some assurance from the Minister that the Income Tax Act will be amended in such a way as to ensure that the demands by the Commissioner of Inland Revenue can only be dealt with after due process by a court, and then a refusal would meet the fine imposed. I have some concern as to this back door way of giving information to external agencies.

12.05 p.m.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Chairman, I have taken note of the comments of Senator Blackman and I will have them discussed in the appropriate forum.

The question that clause 12 stand part was put and resolved in the affirmative without division.

Clauses 13, 14 and 15 were called and passed.

On the motion of Senator the Hon. Dr. C. D. CLARKE, Mr. CHAIRMAN reported the passing of one Bill in Committee without amendment, and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On separate motions of Senator the Hon. Dr. C. D. CLARKE, the Bill was read a third time and passed.

COMPANIES (AMENDMENT) ACT, 1988

Order No. 2 was called – To move the second reading of a Bill to amend the Companies Act, Cap. 308.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Deputy President, this amendment to the Companies Act seeks to provide specifically for the appointment of alternate directors, and is as a direct result of the action which we took in the exempt insurance amendment a while ago.

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

SENATOR C. A. BLACKMAN: Mr. Deputy President, the amendment is a simple one and, therefore, should not generate a lot of heat, but I think that this Bill to amend the Companies Act provides an opportunity to look at some other things that, perhaps, might need to be done to that Act, and they all touch and relate to the matter of directors as well. I would like the Minister to take these points into consideration in discussing the Act with his Cabinet colleagues.

Sir, the Act, at section 64, provides that a director of a public company may be disqualified by the court in certain circumstances. I would like to suggest, Sir, that perhaps that section be looked at in the context of deleting the word "public", and I will tell you why.

We have an ironic situation in Barbados that a man needs a police certificate of character to get certain types of jobs, but if he decides to go and form a company, there is no vetting. He can go and form a company without any screening whatsoever, and we have a whole lot of problems in some people using the Companies Act, and I use my language carefully, Sir, as vehicles of fraud, without any vetting whatsoever. You can form a company without the aid of a lawyer by paying a fee of \$780 to the Registrar of Companies, and I think that the Act needs some amendment to provide that an individual, perhaps, who has judgments which have not been satisfied for a period of a year, or has certain other matters that can be thought of, should not be able to form a company.

The other thing I wish to raise is that we have a situation on-going, of which everyone is aware, where a company is under investigation. That enquiry is being pursued under the Commission of Enquiry Act. It could have been done under the Companies Act if the necessary language was in place. Section 4 of the Act speaks of the Registrar having an enquiry. I think it is more appropriate to amend that section to provide that the Minister, in appropriate circumstances, could have an enquiry into a company. In England, there is provision in the comparable legislation where the Minister of the Board of Trade can appoint inspectors to go in and carry out investigations.

12.15 p.m.

I have a concern that what is happening in Christ Church at the moment is almost a media circus. It provides the headlines for newspapers and for the TV stations every night, but at the end of the day, nothing may happen in terms of anybody being locked up or otherwise, because so much has been said and published that they might not be able to achieve the end result that they wish.

The process in England, Sir, which the Department of Trade and inspectors pursue, is that a report is made and an investigation is carried on. People go in, turn up the books, put you under enquiry, and have all the powers of a court when they are doing it. But it is not public while they are doing it. At the conclusion of the investigation, a report is filed with the Director of Public Prosecutions and the Minister, who can then lay charges. This has had the result in England in a big public company like Guinness, in which there was a lot of inside dealings on company shares, some years ago a company called Slater Walker, and a number of other companies, being the subject of investigation by this process.

Another provision in the English Act which could be easily adapted in Barbados is that if the investigation finds that there has been a wrongdoing on the part of the company, the expenses of the investigation may be borne by the persons connected with the company. This media circus currently going on is going to be a burden on the Barbadian taxpayers, who will have to pay for the Commission of Enquiry. I think, Sir, they should look at the legislation in order to ensure that the expenses are collected, because there will be more need for commissions of enquiry. As long as people are doing business, they will do business with some disregard for the proprieties.

Sir, there is another related matter. There is a company similar to the one — and I am not going to call its name — which is being examined, which is still advertising on the radio — I hear it on BBS on the five to seven news on mornings — to take deposits at a rate greater than what it is permitted to take, and nothing has been done about it.

Government has been talking for some time about bringing a Protection of Depositors Act in this country, and I think it is overdue. We had the Barbados Foundry people hurt a couple of years ago. We had Trade Confirmers' depositors hurt. What else must collapse before the legislation is put in place?

There is a model legislation that I have sent to the Central Bank based on what has happened in Jamaica. Jamaica has an Act. It is an Act that has been in place since the 1960s, similar to that in the United Kingdom. Sir — I have made this point before — we do not have to re-invent the wheel, a model is available that can be looked at, and I think that we should not wait for another catastrophe to take place before we rush to put legislation in place.

I think the Companies Act is a new Act, it is a modern piece of legislation, but there are safeguards that need to be put in place. We have had the experience that people have been doing business in a way that, at the end of the day, when you have to sue them, you do not

know which company they are using. They open a business in one name and they trade in something else, and you can never correlate the two.

Aside.

SENATOR C. A. BLACKMAN: Someone was saying out there that my profession aids and abets them. That may be true in some respects. But the point, Sir, is that if you put the necessary controls in place, there would be less capacity to aid and abet. I think that the Act must be looked at to make sure that it is not used as a vehicle for fraud or abusing people. As I said, it is ironic that if you want to be a security guard, you have to get a certificate of character, but if you want to go up market and say, 'I want to become a company director,' you just go and pay your money and become it, and nobody ever checks you out as to whether you are a competent trustworthy person to incorporate a company. I feel this should be looked into.

I support the Act in other respects.

Applause.

SENATOR N. W. BOXILL: Mr. Deputy President, in support of some of the things that Senator Blackman has just said, I would like to ask the Minister right now if he knows if it is mandatory for the Indians who come here to sell — they just come and go out selling — if they have to have a licence. I ask that because Senator Blackman mentioned that a Barbadian who wants to sell on the beach or anywhere has to get a certificate of character — he has to get all kinds of things, who his mother was, when she was born, who the grandmother was — before he can get a licence to sell on the beach. But these Indians — I do not want anybody to think I have anything against the Indians or anybody else — these itinerant salesmen come here, just fill up a valise or load up a van, and go around selling the things.

I think that what Senator Blackman has said — he might not have put it as lucidly as he could have,.....

Laughter.

SENATOR N. W. BOXILL: ...it is true.....but I think what he said has a lot of weight. I think the time has come when we as a Government must look into these things, because if we are going to demand that our own get a licence to sell, I do not see why Sam Couchie and the duppy could come here and fill up a valise — God in Heaven knows with what, some of them come in here with watches that do not even have in springs — and sell.

Laughter.

SENATOR N. W. BOXILL: This is true. They come and sell you a lot of bogus material.

I remember that when I became a Minister of this country, I discovered that insurance companies were coming in here and just starting up without having any collateral, without having any deposit, and as a result, I insisted that they must deposit something. Because they come in here drawing money, and when somebody made a claim, they gave a lot of trouble. There were always problems to get money when you get into an accident. They were drawing people's money, and they could easily do this and clear out and claim themselves bankrupt or something. I think the time has come, as Senator Blackman just said, for us to take a more serious look and get the legislation on the books to protect ourselves so that we do not get these things happening to us again.

SENATOR V. C. FRASER: Mr. Deputy President. I rise to support the Resolution, and to refer to some of the points which the two past speakers have cited.

On the matter of people registering several different companies, we have had some experiences with that, because when you try to collect money from people for various purposes, you find that it is not with this company, it is registered by another company with some little name, and then there is another company and another one, and so on. And what saddens me — Senator Boxill mentioned part of it, and I recall we in the National Organisation of Women had a big outcry about it, we were very upset — is that beach vendors, in addition to having to get a licence, also had to be armed with a police certificate of character.

Some four days ago, a young man called me and said this is four years now he has been trying to get a licence. He has various skills, and whenever he is caught, he is being run about the place by the police. He said, 'All I am doing is my skill I learnt at the Polytechnic, I am trying to market that skill to get money.'

I feel that what is good for Peter is good for Paul. The itinerant vendors who go to people's houses do not have to have a police certificate of character, and they are going in people's houses. The people who are selling on the beaches are not going in anybody's houses, and they have to have a licence. So we were arguing, and it caused a big hue and cry in this country. Certain legal people got up and abused some of us, but we stuck to our guns about that, because we felt that it was imposing an additional hardship at that time, and it still does, on the little fellow.

12.25 p.m.

The selling on the beaches, or even moving around and selling with your licence is helping the unemployment

situation. Because if a fellow has a skill and he is trying to market that skill, I do not see why you must punish him doubly. We had taken this up with our lawyers, and we understood that if the person was reported in Bridgetown for a parking offense, they need not give him a police certificate of character. I do not know if it is wrong or right. You legal people will have to get together and tell us whether we are right or wrong.

Asides.

Mr. DEPUTY PRESIDENT: Please address the Chair, Senator Fraser.

SENATOR V. C. FRASER: I did not refuse to address the Chair.

Mr. Deputy President, I would like to see this matter looked into. Whether that is right or wrong, we will know when it is looked into properly. I am all in favour of having something done, and while it is being done, we should look into all the areas, rather than continually go back and forward. I think we should get all the various things we want done done now, and do it properly. As I said, I am averse to people being able to come in here, and set up companies without having the same checks and balances as the ordinary person who is trying to make a living.

Thank you, Mr. President.

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

On the motion of Senator the Hon. Dr. C. D. CLARKE, Mr. DEPUTY PRESIDENT left the Chair and the Senate resolved itself into Committee on the Bill, Senator J. C. W. WICKHAM in the Chair.

COMMITTEE

Clauses 1 and 2 were called and passed.

On the motion of Senator the Hon. Dr. C. D. CLARKE, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On separate motions of Senator the Hon. Dr. C. D. CLARKE, the Bill was read a third time and passed.

COMPULSORY ACQUISITION OF LAND AT HALLS ROAD, ST. MICHAEL

Order No. 3 was called — To move the passing of a resolution to approve the compulsory acquisition of land at Halls Road, St. Michael for environmental purposes.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this Resolution for the compulsory acquisition of land at Halls Road stems from certain representation which was made several years ago to the Ministry of Housing and Lands on behalf of the estate of Edward Riley. There was a complaint that Government had encroached and utilised certain lands at Halls Road, Riley's Gap, to be precise, that it had been used for the purpose of constructing a drain, and the owners have not received any compensation from Government.

After investigation of the complaint, the Ministry of Transport and Works reported that there is evidence that the land of the estate has been used. But they advised that, in fact, highway improvements had been carried out in 1984 and subsequently in 1986.

A representative of the estate of Edward Riley approached Government and asked that the land be purchased in view of the fact that the estate might not be permitted to use the land for house spots, and that there were certain expenses of the estate which sale of the land would assist them in defraying. When the Ministry of Transport and Works were asked about it a second time, they advised that it was intended to clear the area between the northern Halls Road and the Constitution River drain, and that the land owned by the estate of Edward Riley could be acquired for this purpose. Cabinet gave approval, and the necessary steps were taken under the provisions of the Land Acquisition Act.

This Resolution has been prepared and is being brought to Parliament to give the next step in the process of acquisition of this land for environmental purposes.

I beg to move that this Resolution be passed.

SENATOR L. R. TULL: Mr. Deputy President, I would like the Government to give serious consideration to making the area from Halls Road right down to the Central Bank a green and open area. Some thought was given to it a number of years ago, but it fell by the way, because of certain strange considerations. I will not say what they are. But certainly from the Globe Cinema right across to the Queen Elizabeth Hospital and then all the way down to the Central Bank, should be open, and be a green area. Outside of the Central Bank, I now see trees planted and seats, and so on, and a number of business people in Bridgetown, and workers, generally, are using that area for relaxation and luncheon during the middle of the day.

Asides.

SENATOR L. R. TULL: I am not just talking about trees, I am talking about a park situation. It means, in effect, cleaning out Ellis Village. If you come from the

Globe to the junction of Martindales Road and Constitution Road, you will have to clean out all of the houses on the right. That is a terrible slum. You can clean that area out, plant trees and grass, and put in walk-ways, and equally, when you get on the western side of Queen's Park, you can clean out Church Village.

12.35 p.m.

Church Village is not only a bad slum, but it is one of the main areas for the distribution of illegal drugs in Barbados, and I do not think we can be doing too badly if we use the opportunity to solve two problems. One is to beautify Barbados and the other is to make the environment such as would conduce to proper living.

I notice that the Minister mentioned that they are acquiring the land that is the subject of this Resolution for environmental purposes, but in his introduction, all I heard was that it was being done out of necessity. I could not hear what the environmental purposes were. I am not quarrelling with that, I really think the Government will do itself a powerful good — and, God knows, it needs it — and it would do a powerful good to the people of Barbados if it could take that area I have just described and make it an open and green area for the enjoyment of the people of this country.

SENATOR J. C. W. WICKHAM: Mr. Deputy President, I could not agree with Senator Tull more, and I do not need to labour that point. It makes a great deal of sense.

This debate would have been helped a great deal if we had before us a plan of the area of acquisition. It has been normal in past years for plans of plots of land and areas to be acquired to be provided during the debate, and it would really help if members did have access to those plans during the debate. In fact, Senator Tull would not have been looking around to find where east was and where west was if we had this plan before us.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I do not think that any of us on this side would find any fault with the comments made by the two previous speakers, and we will certainly communicate these very interesting comments, because they are not mentioned for the first time. I hope that Government will be able to find the necessary monies to carry out this far-reaching, urban development that is suggested. It would certainly be a credit to any Government which undertakes it.

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

LAND (ADJUDICATION OF RIGHTS AND INTERESTS) (AMENDMENT) ACT, 1988

Order No. 4 was called – To move the second reading of a Bill to amend the Land (Adjudication of Rights and Interests) Act, Cap. 228A.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, the objectives of the Land (Adjudication of Rights and Interests) Act, Cap. 228A, are to remove an anomaly contained in the Act, to remove doubts regarding the award of compensation thereunder, to permit the Minister responsible for lands to classify certain titles according to their origin, to create new offences, and to require the regulations made under the Act to be subject to negative resolution.

The anomaly in section 4 of the Act has resulted from the law revision exercise, because although the word "petition" was removed by an amendment contained in the Act of 1979, Act No. 44, it has still appeared in the latest edition of the revised Laws of Barbados.

The amendment to section 9 contemplates the award of compensation to a land owner where a right of way is created over his land. This power to award compensation is granted to the Chief Surveyor at the present time, but since it is a judicial function, and, as such, must be exercised by the Commissioner of Titles, a judicial functionary, the amendment seeks to correct that.

The amendment to section 10 has as its objective the imbuing of the Minister with the authority to classify titles according to their origin. What is contemplated is that titles such as those granted by the National Housing Corporation and by land owners under the Tenancies Freehold Purchase Act, which are non-contentious and guaranteed by relevant enactments, will be easily classified.

In addition, Mr. Deputy President, as the Act stands, there are no offences in the original Act. The new section 32A creates offences where persons fail or refuse to comply with directions given by a Commissioner under the Act, or where they wilfully neglect or refuse to answer upon oath any questions put by the Commissioner at the time of adjudication of the parcel in respect of which the person claims the right of interest.

Section 33 is amended so that there is provision for negative resolution, as a result of the fact that fees will now be charged under regulations which may be made pursuant to this Act.

These amendments are part of the tidying up process, Mr. Deputy President, and I now move that this Bill be read a second time.

SENATOR L. R. TULL: Mr. Deputy President, I just want to have one matter clarified arising out of the introduction made by Senator Lewis. Did I hear Senator Lewis say that the refusal to answer a question put by the Commissioner may constitute an offence?

SENATOR THE HON. L. V. H. LEWIS: That is what the amendment says, "where they wilfully neglect...." Page 3(c).
12.45 p.m.

SENATOR L. R. TULL: If that is what it says, page 3 (c) "wilfully neglects or refuses to answer upon oath or otherwise any question which may be lawfully put to him by the Commissioner", I think this goes at the root of our jurisprudence. People in Barbados have a constitutional right to keep silent. I am trying to find out what are the special circumstances. I have not studied the amendments, nor do I know what wrong it is trying to correct, so I am not being absolute, but it seems to me, Sir, that we, for the whole of our history, have always had a system of law that is based on the right of a person to keep silent, and the reason why this is so is because no one must be forced to make self-incriminating statements.

I do not know of any circumstances which may arise under this Act where one can make a statement that is self-incriminatory. But if that is so, Mr. Deputy President, this strikes at the root of our whole jurisprudence and our sense of justice if a man has to be found guilty and be punished for keeping quiet when he does not want to say something to land himself in trouble.

Those are general observations, because, as I said, I have not studied the specific aspect, nor do I know the particular wrong that the Bill is trying to correct. Maybe if that information is vouchsafed to us, I might have a different position to take.

SENATOR C. A. BLACKMAN: Mr. Deputy President, I wish to support Senator Tull, and suggest that unless there is a very serious urgency that this Bill be pursued today, it be deferred. There were consultations in the Bar Association on some of these amendments, but this one was not sent to us, and I think that the concerns expressed by Senator Tull ought to be given heed to.

The Act lacks penal sections. I do not know if it is necessary for an Act of this kind to have any penal sections, because it is looking to deal with property rights, and the other property legislation does not have this sort of penal sections in it, and I do not know why it is considered necessary to have this in place. Unless there is some pressing urgency, I would suggest respectfully to the Minister that further consideration be postponed.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I have heard the two Senators, but I do not consider that their concerns, although very personal ones, obviously, are the sort that should cause us to defer this matter. I believe the matter must have been thoroughly examined, and I cannot believe that it would have passed the Other Place and come here if it had not been properly examined, and if there is any problem here, there are other remedies.

SENATOR J. C. W. WICKHAM: Mr. Deputy President, the points raised by the two Senators, Senators Tull and Blackman, seem to me to be of sufficient merit to warrant a second thought on this matter. Nobody or individual is infallible, and I certainly have known of occasions in this Senate when matters of some moment have escaped the notice of the Lower House. I think we would be guilty if we notice what appears to be an omission and fail to act upon it. There can be no harm done in requesting a postponement; otherwise, some of us may be forced to vote against the Bill.

SENATOR THE REV. CANON I. McK. JONES: Mr. Deputy President, I would have to concur in what my colleague has just said. I am not a legal man, but I feel that a person has a right to withhold his speech if he does not want to incriminate himself, and I do not think any law should be passed to force a man to say something which can be incriminating to himself. I think that in the United States there is something called the Fifth Amendment which you can claim, and nobody can force you to say what you do not want to say.

If this is going to be voted on today, I would in conscience have to vote against it, because it would seem to me that, as Senator Tull said, you are hitting at the very root of jurisprudence, because you are saying now that whereas it was known that a person had a right to refuse to speak, even under oath, you are now abridging that right. I agree with the other speakers that we should defer this for further examination before we ask people to vote on it today.

Thank you, Mr. Deputy President.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I have no problem with bowing to the wishes of members who wish to have the matter deferred, and I will ask to have an explanation of the specific section. It does not strike me, if a matter is being dealt with under oath, to be any different from how a matter is dealt with under oath in the High Court, but then I may not understand. So I respectfully withdraw any further action on the matter, and ask that further consideration be postponed.

The question that further consideration be postponed was put to the Senate and agreed to.

JURISDICTION (MISCELLANEOUS AMENDMENTS) ACT, 1988

Order No. 5 was called — To move the second reading of a Bill to make certain enactments in order, inter alia, to confer jurisdiction on the Registrar of Titles under certain enactments.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, the object of this Bill is to give the Registrar of Titles the authority to act under a number of enactments relating to land transactions which are now the sole preserve of the Registrar of the Supreme Court. I think that we have been looking forward to this for a long time.

These amendments are necessary, because there will be, for some time, two systems for dealing with land in operation in Barbados when the registered system comes into operation, the other system being the unregistered system. Transactions carried out under the registered system will continue to be subject to property transfer tax and stamp duty in the same way as transactions under the unregistered system.

Additionally, there are a number of miscellaneous duties under enactments like the Land Tax Act, Cap. 78A, regarding the stamping of conveyances and leases which must now be performed by the Registrar of Titles.

The proposed amendment to the Land Registration Act, Cap. 229, has as its objective the retention of the existing practice whereby a mortgagee will be issued a document, in this case a certificate of charge of evidence of legal transaction. This transaction will also be noted on the land register in respect of the parcel that is subject to the charge.

All of the other amendments proposed define the Registrar in such a way as to include the Registrar of the Supreme Court, the Registrar of Corporate Affairs and Intellectual Property and the Registrar of Titles.

This, in effect, is an attempt to tidy up the arrangements resulting from the coming into being of the new system for giving titles to land.

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

SENATOR C. A. BLACKMAN: Mr. Deputy President, there is not a lot of controversy with these proposals, and, in fact, the profession is looking forward to seeing the system of land titles work. But for the transition, Sir, I think people will have to expect that it is going to be a while before the whole island is put on the register. I saw an article in this morning's paper suggesting that it could be done in three years, by 1991. Jamaica's experience was closer to 10 — 15 years. I think that, for

a small island, we have a lot of small parcels of land and it would take time.

12.55 p.m.

I want to focus, Sir, on the enactments which are being impliedly affected and listed in the Schedule. The Land Development Duty Act is referred to in the Schedule and I wish to raise a query with the Minister. Section 3 of the Land Development Duty Act gives the right to the Minister to declare an area a special development area and impose a betterment levy, so that Government can recover any extraordinary expenditure in the creation of new highways. This was done, Sir, over the years in respect of East Coast Road, the St. Barnabas Highway, the Spring Garden Highway, and the Cave Hill Development. With the airport to West Coast Highway almost complete, and that highway having opened up large new areas of land that were not previously capable of being accessible, my question, Sir, is, when is Government going to make the order? Because there are a lot of people who have benefitted from the construction of that highway and who are going to sell their land at extraordinary prices, and unless an order is put in place very timely, the development duty that could accrue to the Treasury to defray the cost of the road would be lost. That order, Sir, is almost overdue, because the road is almost complete.

Another point, Sir, which I wish to make on this Bill is in relation to the Land Tax Act. This is a professional concern I have, Sir, and it is something that happens every year which holds up conveyancing transactions, that after March 31 each year, when a tax certificate expires, you have a long process to get a new one for transactions you want to complete. You cannot even pay your bill on the basis of the previous year's bill. It can take anything like four weeks to two months to get a new certificate to complete a transaction after April 1, and I am really appealing to the Minister of State in the Ministry of Finance, who has some responsibility for this, Sir, to look into the processes by which these things can be speeded up. It has a tremendous impact on the profession between April and November when land tax bills are normally issued.

I raised a matter in relation to the Property Transfer Tax Act during the Estimates Debate. It may have been overlooked at the time in the general nature of that debate, but I want to repeat it now, and I am going to repeat it deliberately.

I wish Government would consider amending the Property Transfer Tax Act to provide that leases for a period not exceeding ten years be exempt from Property Transfer Tax Act. We have a nonsense under that Act. There is a building in Fontabelle, with which Senator Goddard has some connection, which, when it was a freehold by itself, had one value, but when it was being

put up for lease, the Valuation Department came up with a valuation on a lease on that same building that was almost in excess of the valuation for it as a freehold. It does not make sense. I do not understand the Arcadian methodologies of the Valuation Department, and it held things up.

I think there is a need for leases for business purposes, for a period up to ten years, to be exempt from property transfer tax. As I said in that Estimates Debate, we end up by not even now presenting them to the Registrar for adjudication, because it is a nuisance. You end up with a charge that probably bears no relation to the real value. It creates problems, I know, Sir, for the IDC when people come in, are sold premises, and on the one hand they are free from all taxes, and yet they say that they are not free from the transfer tax, which turns out to be a very high rate, and the higher rate of ten per cent if they are non-nationals.

The other thing I want to raise on the Property Transfer Tax Act is that I think there is need for an exemption where transfers are made in pursuance with an order of the court under the Family Law Act. When marriages come to an end for whatever reason and property settlements are made, and there is an agreement to settle in a certain way, it is really unnecessary to have to pay transfer tax on a transfer of property from one spouse to the other. And, again, a valuation is imposed on the property by the Commissioner of Valuations that does not take into account a mortgage, the fact that one probably made improvements to it, and all of those sorts of considerations. I do not think the Government should be trying to make money out of human misery. All it needs is a simple amendment to the Act to say, "A transfer pursuant to a family law order would be exempt from the Act."

SENATOR L. R. TULL: Mr. Deputy President, Senator Blackman is a conveyancer of many years experience, and he understands these things better than I do. So while he has dealt with some of the legal problems involved in the transfer of property in Barbados, I will deal with some other aspects.

I should like to tell Senator Lewis, first of all, that when I was at school plagiarism used to give you zero. You always had to say where you got these great ideas from. Do not take them from other people and jot them down as your own.

This whole business of the separation of the Registry of Titles from the Supreme Court Registry has been a decision by the previous Administration, which toiled for a long period over how they could separate three important segments of the work of the Registry so that Barbadians could get better service in these three areas.

One was the Registry of the Supreme Court, the other, as I mentioned here in this Chamber a few weeks ago, was the Registry of Corporate Affairs, and the third one was the Registry of Titles. One Registrar was doing the work of all three from time immemorial, and the volume of work has increased quite considerably over the period of years, and legal practitioners and the general public have grown to know that there will be endless amount of problems in dealing with any problem in the Supreme Court Registry of Barbados. I do not care what it is, if it is an appeal against a decision of a court, or it has to do with transfer of property or registration of companies, whatever, the work had outgrown the size of the Registry, and I do not only mean physical size in terms of four walls. So this is a welcome piece of legislation. It is a minor piece, because it is based on more substantial legislation which has taken place before.

But I want to caution one or two things. All the study that has been done in relation to the setting up of a Registry of Titles suggested that the public of Barbados will benefit considerably. They will be able to transfer their property with far less difficulty than they have ever done in the past, and, more importantly, the cost will most likely be considerably reduced. That is cold comfort for some people who earn most of their income from conveyancing. I do not hold any brief for them. But certainly the public, for whom I would like to hold a brief, would benefit considerably in terms of money and time spent in the transfer of property.

The change from the old, not only old, Sir, archaic — I guess you can be old and not archaic — system that currently obtains is like a breath of fresh air in land owning and land transfer in this country, because I will agree that it will work to the benefit of all Barbadians. But when we talk about the transition, Sir, you cannot move from the old, cumbersome system to the modern, streamlined system that is envisaged in the legislation and in the setting up of the Land Registry without a number of problems. The transitional period will be a period of severe testing for both the administrators and the practitioners.

1.05 p.m.

Over two years ago, the previous Administration started to advertise for a new Registrar of Titles, because we knew that we had reached the stage where we should start to take that kind of action. True to its form, the new Government came in and wanted to undo so much that has been done before it — the good, the bad and the indifferent — in this case the good — and cancelled all that. I was at the time involved very much in it, and I know when the ads went out and people applied for the post. Two years have passed and nothing new has developed, and we are now only thinking of having a Registrar of Titles in place.

In my view, the Registrar of Titles will have to have a long period of preparation for setting up the transfer, before we can even put it into place. For instance, I have seen the forms. We took a long look — I do not know if the Bar Association did — at a whole series of forms that were proposed to be used in the new dispensation, and there were long and endless arguments and discussions over whether Form A is appropriate, or Form B, or Form C.

It was also important that the Registrar of Titles be given an attachment to a Commonwealth jurisdiction that had already made the transition from the old system to the new, so that he could or she could pick up many of the problems that that particular country had experienced, and look at how that country went about finding solutions to those problems, so that he or she could avoid that kind of difficulty when we started in Barbados. This is not an easy matter, Sir, it is not easy at all, and it is not only not easy from the point of view of the legal and professional requirements, but land holdings and land transfers in Barbados have been the cause of all kinds of infelicities in this country.

There was a case of land dispute in St. Lucy that has been going on for about 47 years, and about 30 or 40 lawyers over that period of time have made quite considerable fees off it far, far in excess of the value of the land. When I started to practice law, Sir, I was asked by a senior lawyer a few months after I was in practice, 'Have you got piece off that land yet?' Everybody used to come along and get a piece.

So it is not only, Sir, the question of the professionals in terms of this transfer. You have to deal also with a certain Barbadian psychology — not mentality — psychology — because there are as many experts in land holding and land transfer outside the professions as there are in. Those of us who have any passing acquaintance with these things will know that, quite often, it is very difficult to advise a client, because clients profess to know all about it even before they talk to you.

In summary, Mr. Deputy President, I am asking the Government to move with some dispatch in getting the staff in place, and also in trying to work out, particularly with the legal profession, a timetable for the operation of this new machinery. Do not just spring it on the profession, because there will be total chaos. I think it would be useful if the Government will deal with the Bar Association and work out a clear timetable so that legislators and people in real estate, the mortgage houses and financial houses, all of the people involved, will know in advance the kind of schedule we are working towards and try to work out a system that will operate in the best way to the benefit of all our people.

SENATOR THE HON. L. V. H. LEWIS: The question of the timeliness of this legislation and a need for a schedule to be drawn up for trying to bring this activity into place totally is receiving the attention of persons in the Ministry of Legal Affairs and in the Ministry of Housing and Lands.

I am aware, and I believe Senator Tull is aware, of the problems surrounding the recruitment of the Registrar of Titles. Although the same person who was earlier recruited has, in fact, been appointed or confirmed in this position, there was some difficulty relating to the translation from temporary appointment to permanent appointment which had nothing at all to do with the Government. It had to do with the appropriate commission that had to determine when the appointment would be made and why it would be delayed or go forward.

The Government is as anxious as Senator Tull and others would be, to ensure that whatever procedures are necessary to be adopted, which have taken place in other administrations, will be focused on and brought to bear in our implementation of this system. I think that I can give assurances that there is concern about the urgency of the matter.

I believe a statement will be made in order to answer some other concerns which have been expressed elsewhere about this legislation.

With those remarks, Mr. Deputy President, I beg to move that this Bill be read a second time.

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

On the motion of Senator the Hon. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT left the Chair and the Senate resolved itself into Committee on the Bill, Senator J. C. W. WICKHAM in the Chair.

COMMITTEE

Clauses 1, 2 and 3 were called and passed.

The Schedule was called and passed.
1.15 p.m.

On the motion of Senator the Hon. L. V. H. LEWIS, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On separate motions of Senator the Hon. L. V. H. LEWIS, the Bill was read a third time and passed and cited as the Jurisdiction (Miscellaneous Amendments) Act, 1988.

PRIVATE MEMBERS' BUSINESS

SENATOR C. A. BLACKMAN: Mr. Deputy President, I beg to give notice of the following: A Bill to amend the Limitation (Public Authorities) Act, Cap. 206.

SENATOR J. C. W. WICKHAM: Mr. Deputy President, I beg to second the proposal and reserve my right to speak.

ADJOURNMENT

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I believe that takes care of business for today.

I beg to move that this Senate be now adjourned until Wednesday, June 22.

SENATOR J. C. W. WICKHAM: Mr. Deputy President, on the motion for the adjournment, I would like to say something with the vain hope that I make some impression on the media. You will have noticed that the media have been conspicuously absent today. We have discussed a number of matters of enormous interest and we have had interventions of great interest to the public. It is almost certain that they will never be reported.

The Press is not an insignificant part of parliamentary business, and we have to do something to say to them that they have to take Parliament seriously. I cannot speak too strongly on the way that this meeting has been ignored by the Press.

Mr. DEPUTY PRESIDENT: Thank you. I had earlier made a similar observation.

The question that the Senate be now adjourned until June 22 at 11.00 a.m. was put to the Senate and agreed to, and Mr. DEPUTY PRESIDENT adjourned the Senate accordingly.
1.21 p.m.

CONTENTS

PRESENTATION OF PAPERS

Senator the Hon. L. V. H. LEWIS 833

The National Insurance and Social Security (Non-Contributory Old Age Pensions) (Amendment) Regulations, 1988.

The National Insurance and Social Security (Benefit) (Amendment) Regulations, 1988.

The Annual Report and Financial Statements of the National Petroleum Corporation for the year April 1986 to March 1987.

The Public Holidays Order, 1988.

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

Braeside Limited

Carlyle Insurance Company Limited

Commercial Acceptance Insurance Co. Inc.

Community Insurance Trust Limited

Excess Reinsurance, Ltd.

Fencourt Reinsurance Company (Barbados) Ltd.

Financial Indemnity Company Limited

Great Western Assurance Company Ltd.

Lincoln National Reinsurance Company (Barbados) Limited

Old Fort Insurance Company (Barbados) Ltd.

Owners Protective Insurance Co. Ltd.

Pharmacia Insurance Inc.

St. Andrews Insurance, Ltd.

Transportation Reinsurance (Barbados) Ltd.

Tristar Reinsurance Company Ltd.

The Duties, Taxes and Other Payments (Exemption) (No. 2) Order, 1988.

Statement showing Net Customs and Excise Receipts for 11 months ended 28th February, 1988.

Instrument adopted at the 74th Session of the International Labour Conference held in Geneva in September, 1987.

The 9th Annual Report and Financial Statements of the Barbados Port Authority for the year ended 31st December, 1987.

The Civil Establishment (General) (Amendment) Order, 1988.

The Annual Report and Audited Financial Statement of the Transport Board for the year 1985-1986.

MOTIONS RE BUSINESS

Senator the Hon. L. V. H. LEWIS 834

Suspension of Standing Order 45(2)

APPOINTMENT OF ACTING CHAIRMAN OF COMMITTEE 834

Mr. Deputy President, 834.

INTRODUCTION OF BILLS

Senator the Hon. L. V. H. LEWIS 834

A Resolution to approve the Civil Establishment (General) (Amendment) Order, 1988;

A Bill to amend the Mortgage Insurance Act, Cap. 233;

A Resolution to approve the compulsory acquisition of land at Lancaster, St. James for the purpose of improving Highway 2A and relocating houses;

A Resolution to approve the compulsory acquisition of land at Proute, St. Thomas for the purpose of developing a playing field;

A Resolution to approve the Public Holidays Order, 1988; and

A Resolution to approve the compulsory acquisition of land at Cane Garden, St. Michael

and St. Thomas for housing development and for the construction of the St. Thomas Secondary School.

PUBLIC BUSINESS

EXEMPT INSURANCE (AMENDMENT) ACT, 1988. 834

Senator Clarke, 834, 838, 839; Senator Blackman, 835, 838, 839; Senator Goddard, 837, 839; Senator Morrison, 838.

COMPANIES (AMENDMENT) ACT, 1988 840

Senator Clarke, 840; Senator Blackman, 840; Senator Boxill, 841; Senator Fraser, 842.

COMPULSORY ACQUISITION OF LAND AT HALL'S ROAD, ST. MICHAEL 842

Senator Lewis, 843; Senator Tull, 843; Senator Wickham, 843.

LAND (ADJUDICATION OF RIGHTS AND INTERESTS) (AMENDMENT) ACT, 1988. 844

Senator Lewis, 844, 845; Senator Tull, 844; Senator Blackman, 844; Senator Wickham, 845; Senator Jones, 845.

(f.c.p.)

JURISDICTION (MISCELLANEOUS AMENDMENTS) ACT, 1988 845

Senator Lewis, 845, 848; Senator Blackman, 845; Senator Tull, 846.

PRIVATE MEMBERS' BUSINESS

Senator C. A. BLACKMAN 848

A Bill to amend the Limitation (Public Authorities) Act, Cap. 206.

ADJOURNMENT 848

Senator Lewis, 848; Senator Wickham, 848.

SPEAKERS IN THIS DEBATE

BLACKMAN, C. A.
BOXILL, N. W.
FRASER, V. C.
GODDARD, J. S.
JONES, Can. I. McK.
JORDAN, M. deL.
LEWIS, Hon. L. V. H.
MORRISON, A.
TULL, L. R.
WICKHAM, J. C. W.