THE

SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1986 – 91

SENATE

Wednesday, July 12, 1989.

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, July 12, 1989, at 11.20 a.m.

PRESENT

His Honour Senator Sir Frank L. WALCOTT, K.A., O.B.E., LL.D., (President);
His Honour Senator M. deL. JORDAN, (Deputy President);
Senator the Hon. L. V. H. LEWIS, (Minister of State in the Prime Minister's Office, Leader of the Senate);
Senator the Hon. Sir James TUDOR, K.C.M.G.;
Senator A. MORRISON;
Senator N. W. BOXILL;
Senator D. A. COMISSIONG;
Senator Mrs. V. C. FRASER, B.S.S., J.P., M.C.F.A.;
Senator Mrs. G. L. EASTMOND;
Senator A. J. N. PHILLIPS;
Senator J. C. W. WICKHAM, M.B.E.;
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 the Hon. Dr. C. D. CLARKE, (Minister of State in the Ministry of Finance and Economic Affairs);
Senator A. W. A. McCLEAN;
Senator Miss V. P. BRATHWAITE.

Prayers were led by Senator the Rev. Canon I. McK. Jones.

Mr. PRESIDENT: The Senate is in session.

PRESENTATION OF PAPERS

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

The Convention between Barbados and Finland for the avoidance of Double Taxation with respect to Taxes on Income.

Report of Commission of Inquiry into escapees from Glendairy Prison, Antonio Paim and ten prisoners.

REPORTS FROM SELECT COMMITTEES

Item 1 was called - To move that the Report of the Committee of Selection dated the 7th June, 1989 be adopted.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, on the occasion of the last sitting of this Honourable Senate, notice was given that the Report of the Committee of Selection had been laid.

I now beg to move that the Report of the Committee of Selection be adopted.

The question that the Report of the Committee of Selection be adopted was put to the Senate and was agreed to.

Order No. 2 was called - To move that the Report of the Special Select Committee dated 7th June, 1989 and the Tenantries Freehold Purchase (Amendment) Bill be adopted.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, on the last occasion that the Senate met, notice was given that it was proposed to proceed with the Report of the Select Committee on the Tenantries Freehold

Purchase Bill. That notice that a motion would be moved was given under Standing Order 66 (5).

In order that the matter may proceed today, it is proposed to proceed under Standing Order 54 (1).

I therefore beg to move that the Report of the Select Committee on the Tenantries Freehold Purchase (Amendment) Bill be adopted.

SENATOR A. W. A. McCLEAN: Mr. President, the Report of the Committee would reveal a certain level of disagreement which I would have had with Clauses 2 and 5 of the Bill. And given the nature of the particular Bill which purports to amend the Constitution in a non-textual manner, I think it is entirely appropriate that at least Clause 2 be referred back to a committee of the entire Senate, likewise clause 5 which, among other things, concerns itself with the formula for computing the right which is conferred on a tenant who has been deprived of his existing right to a parcel of land, the evaluation of that right in the event that Government is not in a position to provide him with a corresponding parcel of land.
11.30 a.m.

The record will show that I had quite some degree of difficulty with the formula as currently proposed. Therefore, Clause 5 also I would want to suggest ought to be referred to Committee of the entire Senate. There is no harm in referring to the other clauses and, therefore, I wish to propose an amendment to the Motion in the following terms and in accordance with Regulation 54, that the motion be amended to include the following words:

"Subject to the recommittal of the Bill to a Committee of the whole Senate".

I, therefore, move that the motion be amended accordingly.

SENATOR Miss V. BRATHWAITE: Mr. President, I beg to second that motion.

Mr. PRESIDENT: There are 2 motions before the Senate. One is to move the passing of the Bill as before the Senate that the report be adopted and the Amendment. Those in favour of the amendment ... Sir James.

SENATOR THE HON. SIR JAMES TUDOR: Mr. President, I speak wholly without prejudice at this stage to the purpose and intent of the amendment proposed by Senator McClean, for the reason that I have not taken it you know completely into my mind in respect of the consequences to what we are doing or indeed to the purposes for which we set out to do. I shall, therefore, like to have a clear explanation as to whether the work of the Select Committee which was appointed by this Senate is now to be overturned in its entirety or, if not so, to what degree is it likely to be circumscribed. All of my experience and understanding of these matters has been that the work of a Select Committee always concludes with a recommendation to the House either to pass the Bill in its present form, to take out or excise certain clauses of it, or to amend it in some way or other. As far as I can understand this and as I point out, I am not in a position to turn my mind upon Senator McClean's full implications of what he is after. I see here in the report it says, "On June 5th, 1989 the Committee considered and approved the Draft Report of the committee and resolved to report to the Honourable Senate accordingly."

My understanding of these matters, therefore, is that it would be for the Senate as a Senate to accept the Committee's report or to reject it, as the case may be. I think, therefore, that with the indulgence of the Senate that Senator McClean ought to be given some chance to explain what exactly he is aiming at and the extent to which our work will be assisted by what he is proposing. Quite frankly, I believe that some of us may have some difficulty in grasping the full import of what we are being asked to do.

Sir, I do not know what procedures we can adopt in these matters. I believe that Senator McClean ought to be able to have some way of telling us exactly what the end product of what he is seeking will mean to the procedures upon which we are engaged and I hope he will have that indulgence.

SENATOR J. C. W. WICKHAM: Mr. President, further to Sir James Tudor's comment, I am afraid that I must confess a little difficulty in understanding the whole content of this document. I have before me a document called "Report of The Select Committee on Tenantries Freehold Purchase Amendment 1988". It says in the third paragraph that the Committee met on 3 days and in the final paragraph it says on June 5th, which is the last of those 3 days, it considered and approved the Draft Report of the Committee and resolved to report to the Honourable Senate accordingly. The two texts that I have before me consist of a meeting of the Select Committee on the Bill to amend the Tenantries Freehold Purchase Act – Present were so on and so on. No date is attached to it.

I do not know what meeting this is. I presume it is the meeting of June 5th, the final meeting, and there is an appendix to that document which must be the appendix referred to in what I presume to be the meeting of June 5th. I shall, certainly, like the Chairman or some Member of that Committee to explain exactly what is the sequence of these documents. We have almost a verbatim report, but there is no date as to when these things took place or what the final decisions are enshrined in them. It really is a little bit confusing to me. I really would like to be quite clear of what I have before me.

SENATOR C. A. BLACKMAN: Mr. President, there are 2 points.

If I may take the last one first, the Committee met on March 28, 1989 and that date is the date which should appear as the meeting of the Select Committee on the Bill. That is the date. The other 2 dates appearing in the report are dates when the Committee met to discuss and finalise the text of the report which was to be laid in this Honourable Chamber.

The other points to which I wish to refer are the points raised by Senator Sir James Tudor as to seeking clarification as to the submission made by Senator McClean by way of an amendment to the Motion moved by Senator Lewis. I think, Sir, that Standing Order 54(3) contemplated the nature of the amendment offered by Senator McClean and it does no violence to the deliberations of the Committee in that the operative words which Standing Order 54(3) states: "Any Senator may propose an amendment to add at the end of the motion the words – subject to the recommittal of the Bill (either wholly or in respect only of some particular part or parts of the Bill or of some proposed new clause or new schedule) to a Committee of the whole Senate."

Now Sir, the nature of the Bill on which we are about to embark discussion is not your ordinary common garden type Bill.

This Bill has exercised this Senate for much of the 6 months of this year and one will resolve in some of the impasse relating to this Bill which was the deferral of its consideration to a Committee. Without prejudice to that Committee however, Sir, the feelings of the Senators on this Bill are sufficiently strong. I think that the concerns of Senators to the issues raised in the general report could be and should be entertained under the amendment offered by Senator McClean. In that sense, I support what he has offered, because I think that for us purely to adopt a third reading on the Bill without some Senators being given an opportunity in Committee of the Senate to have explanations offered to them that those people who are not Members of the Committee may rebound to a denial of passage of the legislation.
11.40 a.m.

SENATOR M. deL. JORDAN: Mr. President, as Chairman of that Committee I think I should reply to the question raised by Senator Wickham.

Most of the contents of this Report was done on 28th March and we did have minor amendments on 31st May and 5th June. I do not think the dates were given on this Report, because it is not supposed to be a verbatim report of what took place, and therefore it would be a composite report of what happened on all three occasions when we met.

I should like to support what has also been said by Senator Blackman.

I hope that clarifies the non-statement of the dates on the Report.

SENATOR A. W. A. McCLEAN: Mr. President, I was asked to give some indications as to my reasons for moving the amendment to the motion. They are quite simple and straightforward. I thought I had stated them before.

I am interested in getting the Committee of the entire Senate to consider whether or not clause 2(2) (which relates to the non-textual amendment of the Constitution) should be omitted from the section and whether or not the words on page 9 of the Bill (which relate to section 5 – the numbering in relation to the old thing would have been 4B(7)) on the bottom of page 9 under 7(a), namely, "the open market price of that lot and the date of the commencement of this Act" should be substituted for the words "the open market price of a similar lot – the current open market price of a similar lot."

The reason behind the first suggestion is explicit in terms of the record. The reason behind the second one also is enshrined in the record, and I will elaborate on it at the appropriate time.

SENATOR THE HON. L. V. H. LEWIS: I must say, Mr. President, that it was well known that on the report of the Committee – and the Committee was comprised in such a way that we would be able to take all the points which were going to be made by a majority of persons who had concerns about the Bill – we received a report which, according to what is written in it, is accepted by the whole Committee, and then we have a member of the Committee coming to wish to amend a Bill....

SENATOR A. W. A. McCLEAN: On a point of order, Mr. President. I think that is a misrepresentation of the record. It was accepted, not because it was unanimous in terms of the views of everyone present but because a minority view cannot change anything. When we accept a thing it does not mean that it is a unanimous opinion. The record is quite clear. The minority view is set out....

Mr. PRESIDENT: I am not having a debate on that. This is not a matter that is up for debate. We are discussing now points that are raised, because this is a Committee, if there is anything wrong in the report. We are not now discussing past matters, we are discussing what is right or what is wrong, what is accurate or what is inaccurate, not what argument went on in the Senate before or anything like that, so let us stick to the Standing Order as it relates to the debate dealing with these matters.

SENATOR A. MORRISON: Mr. President, I myself am very confused about this report. This matter was referred to a Select Committee and one would expect that the Committee would have had all the opportunity to go into all the implications of this Bill and to come up with a report. In this report I see certain clauses being passed without division, especially clause 2, where it is stated that the question that clause 2 stand part was put and resolved in the affirmative without division. Eventually clause 5 was passed.

Sir, if we are going to arrive at this position now, after having put this matter to Select Committee, we seem now to be no further than when we first referred this matter to a Select Committee of the Senate, and now it has come back to the Senate itself.

My view is that we should adopt the report of that Select Committee and be guided by their deliberations, but from what I have heard this morning, Sir, it does not now seem to be the case and I would need more clarification from the Chairman of that Committee as to what are the actual report and recommendations to this Honourable Senate.

SENATOR M. deL. JORDAN: Mr. President, I submit that the report which is before us is the report which should stand. We have no new contributions. In fact we could not have any other than those which were made at the meetings which have been outlined here on the given dates, 28th March, 31st May and 5th June.

The concerns of Senator McClean have been noted, but this is a majority report and I think it very clearly outlines the decisions which were taken in Committee.

SENATOR THE HON. SIR JAMES TUDOR: I am sorry to detain you, Sir, but I should like perhaps to assist the Senate, if I may, in this matter. I am suggesting that a lot of us – myself included, I am not afraid to admit this – are still unclear about what we are to do in this matter. I certainly believe that the Senate ought to have an opportunity of hearing Senator McClean, but at the same time I want to be certain that when we have heard further discussion on this matter we do not undo the work of the Select Committee.

I am therefore suggesting to Honourable Members that it might be possible to take a 15 minute recess so that we can all of us understand the ground rules upon which we would be engaged from now on.
11.50 a.m.

It is an important matter we are discussing and we must not make any mistakes by reason of not seeing clearly every step in front of us and I think that the Senate ought to hear the Senator but I want to make sure that when we have heard him and we have discussed that, the main purpose upon which we are engaged, which is the passage of this Bill, is not in any way inhibited or set aside.

I beg to move that a recess of 15 minutes be now taken subject, of course, to the approval of the Leader of the Senate, until 12.05 p.m.

SUSPENSION OF SITTING

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I have no difficulty with the proposal of Senator Sir James. Indeed, it will give us a chance to reflect because I really cannot believe that after committing a matter to a Select Committee and their going into the matter in the greatest of detail that we would come here to regurgitate the whole matter all over again.

I beg to move then that the sitting be suspended until 12.05 p.m.

The question that the sitting be suspended until 12.05 p.m. was put to the Senate and agreed to.
11.55 a.m.

RESUMPTION OF SITTING

SENATOR THE HON. L. V. H. LEWIS: Mr. President, during the period of the Suspension Senators had an opportunity to look at the relevant Standing Orders and, I believe, that a motion will now be made, Sir.

SENATOR A. W. A. McCLEAN: Mr. President, to the best of my knowledge, the motion before the Chamber is the amendment as indicated, No. 54, which was moved by me and seconded by Senator Brathwaite some time ago. I am not aware of any other motion which is now about to be made.

Mr. PRESIDENT: What is the motion?

SENATOR A. W. A. McCLEAN: Mr. President the motion is that the motion as put by the Leader of the Senate be amended to include the words "subject to the recommittal of the Bill to a Committee of the whole Senate" in accordance with Standing Order No. 54.

Mr. PRESIDENT: The text of the motion is that these words be added to the motion made by Senator Lewis subject to recommittal of the Bill to a committee of the whole Senate. All those in favour say "Aye" and those against please say "No". I think the "Ayes" have it.

A division was called for.

Aside.

NOES: SENATORS THE HON. L. V. H. LEWIS; Dr. C. D. CLARKE, SENATORS A. MORRISON; Mrs. G. L.

EASTMOND; N. W. BOXILL; Mrs. V. C. FRASER; A. J. N. PHILLIPS; M. deL. JORDAN; J. C. W. WICKHAM; REV. CANON I. McK. JONES; L. A. WARD; Mrs. P. Y. FORDE – 12

AYES: SENATORS Miss V. P. BRATHWAITE and A. W. A. McCLEAN – 2

ABSTENTIONS: SENATOR THE HON. SIR JAMES TUDOR; SENATORS C. A. BLACKMAN and J. S. GODDARD – 3.

Mr. PRESIDENT: The result of the vote is as follows: 12 Honourable Senators voted "No", 2 Honourable Senators voted "Aye", 3 Honourable Senators abstained, I declare the "Noes" have it.
12.15 p.m.

The motion that the Report be adopted was put to the Senate and was agreed to.

PERSONAL EXPLANATIONS

SENATOR THE HON. SIR JAMES TUDOR: Mr. President, I wanted to draw the Senate's attention to a matter arising out of the Minutes of the Senate of Monday, 26th June, 1989.

On page 2 where the record is made of the Joint Session between this Senate and the Other Place, there is what purports to be a record of what took place in the Joint Session. It starts by saying, I am not going to read it all:

"10.25 a.m."

et cetera. And it goes right down. It says:

"His Excellency the Governor-General spoke.
The President of the Senate spoke.
The Speaker of the House of Assembly spoke.
The Rt. Hon. L. E. Sandiford spoke.
Dr. R. C. Haynes spoke.
Hon. H. deB. Forde spoke."

And then it says:

"His Excellency the Governor-General was escorted from the Chamber." There is no record, Sir, of what small contribution I was able to make.

I must tell you, Sir, I am not quarrelling about it. I wish the record put straight. I did say that I was unaccustomed to public speaking and I may have been taken literally.

Thank you, Sir. I draw it to the attention of the Senate requesting as well that the minutes be amended accordingly to include that I spoke.

PUBLIC BUSINESS

Order No. 1 was called - To move the Third Reading of the Tenantries Freehold Purchase (Amendment) Bill, 1988.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I beg to move that the Bill be read a third time.

The question that the Bill be read a third time was put to the Senate and was agreed to, the Senate dividing itself as follows:

AYES: SENATOR THE HON. L. V. H. LEWIS; SENATOR THE HON. DR. C. D. CLARKE; SENATOR A. MORRISON; SENATOR MRS. G. L. EASTMOND; SENATOR N. W. BOXILL; SENATOR MRS. V. C. FRASER; SENATOR A. J. N. PHILLIPS;SENATOR D. A. COMISSIONG; SENATOR THE HON. SIR JAMES TUDOR; SENATOR M. deL. JORDAN; SENATOR J. C. W. WICKHAM; SENATOR L. A. WARD; SENATOR C. A. BLACKMAN; SENATOR MRS. P. Y. FORDE; SENATOR J. S. GODDARD – 15 AYES.

NO: SENATOR THE REV. CANON I. McK. JONES – 1 No.

ABSTENTIONS: SENATOR Miss V. P. BRATHWAITE SENATOR A. W. A. McCLEAN – 2 Abstentions.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I beg to move that this Bill be now passed and be cited as the Tenantries Freehold Purchase Act, 1989.

The question was put and unanimously agreed to. The Senators present were:

HIS HONOUR SENATOR M. deL. JORDAN
SENATOR THE HON. L. V. H. LEWIS
SENATOR THE HON. SIR JAMES TUDOR
SENATOR A. MORRISON
SENATOR N. W. BOXILL
SENATOR D. A. COMISSIONG
SENATOR MRS. V. C. FRASER
SENATOR MRS. G. L. EASTMOND
SENATOR A. J. N. PHILLIPS
SENATOR J. C. W. WICKHAM
SENATOR THE REV. CANON I. McK. JONES
SENATOR L. A. WARD
SENATOR C. A. BLACKMAN
SENATOR MRS. P. Y. FORDE
SENATOR J. S. GODDARD
SENATOR THE HON. DR. C. D. CLARKE
SENATOR A. W. A. McCLEAN
and SENATOR MISS V. P. BRATHWAITE

ADJOURNMENT

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I beg to move that this Senate be now adjourned sine die.

The question that this Senate be adjourned sine die was put to the Senate and was agreed to and Mr. PRESIDENT adjourned the Senate accordingly at 12.25 p.m.

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