

THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT

[VOLUME 7]

**PROCEEDINGS AND DEBATES OF THE FIRST SESSION OF THE NATIONAL
ASSEMBLY OF THE THIRD PARLIAMENT OF GUYANA UNDER THE
CONSTITUTION OF GUYANA**

34th Sitting

2 p.m.

Wednesday, 22nd May, 1974

MEMBERS OF THE NATIONAL ASSEMBLY

Speaker

Honour the Speaker, Mr. Sase Naraine, J.P.

Members of the Government – People’s National Congress (50)

Prime Minister (1)

The Hon. L.F.S. Burnham, O.E., S.C.,
Prime Minister

(Absent)

Deputy Prime Minister (1)

Dr. the Hon. P.S. Reid,
Deputy Prime Minister and Minister of
National Development and Agriculture

(Absent)

Senior Ministers (7)

The Hon. H.D. Hoyte, S.C.,
Minister of Works and Communications

(Absent – on leave)

*The Hon. S.S. Ramphal, S.C.,
Minister of Foreign Affairs and Justice

(Absent)

***Non-elected Minister**

*The Hon. H. Green,
Minister of Co-operatives and National Mobilisation (Absent)

*The Hon. H.O. Jack,
Minister of Energy and Natural Resources (Absent)

*The Hon. F.E. Hope,
Minister of Finance

*Dr. the Hon. K.F.S. King,
Minister of Economic Development (Absent)

*The Hon. S.S. Naraine, A.A.,
Minister of Housing

Ministers (6)

The Hon. W.G. Carrington,
Minister of Labour

The Hon. Miss S.M. Field-Ridley,
Minister of Information and Culture

The Hon. B. Ramsaroop,
Minister of Parliamentary Affairs
and Leader of the House

*The Hon. Miss C.L. Baird,
Minister of Education and Social Development

*Dr. the Hon. O.M.R. Harper,
Minister of Health (Absent)

*The Hon. G.A. King,
Minister of Trade and Consumer Protection

Ministers of State (9)

The Hon. M. Kasim, A.A.
Minister of State for Agriculture

The Hon. O.E. Clarke,
Minister of State – Regional
(East Barbice/Corentyne) (Absent – on leave)

***Non-elected Ministers**

The Hon. P. Duncan, J.P.,
Minister of State – Regional (Rupununi) **(Absent – on leave)**

The Hon. C.A. Nascimento,
Minister of State, Office of the Prime Minister

The Hon. M. Zaheeruddeen, J.P.,
Minister of State – Regional
(Essequibo Coast/West Demerara) **(Absent)**

*The Hon. C.V. Mingo,
Minister of State for Home Affairs **(Absent)**

*The Hon. W. Haynes,
Minister of State – Regional (Mazaruni/Potaro) **(Absent)**

*The Hon. A. Salim,
Minister of State – Regional
(East Demerara/West Coast Berbice) **(Absent)**

*The Hon. F.U.A. Carmichael,
Minister of State – Regional (North West)

Parliamentary Secretaries (8)

Mr. J.R. Thomas,
Parliamentary Secretary, Ministry of Housing

Mr. C.E. Wrights, J.P.
Parliamentary Secretary, Ministry of Works and Communications

Miss M.N. Ackman,
Parliamentary Secretary, Office of the
Prime Minister, and Government Chief Whip

Mr. E.L. Ambrose,
Parliamentary Secretary, (Agriculture),
Ministry of National Development and Agriculture

Mr. K.B. Bancroft,
Parliamentary Secretary (Hinterland),
Ministry of National Development and Agriculture

***Non-elected Ministers**

Mr. S. Prashad,
Parliamentary Secretary, Ministry of
Co-operatives and National Mobilisation

Mr. J.P. Chowritmootoo,
Parliamentary Secretary, Ministry of Education

Mr. R.H.O. Corbin,
Parliamentary Secretary, Ministry of
Co-operatives and National Mobilisation

Deputy Speaker (1)

Mr. R. C. Van Sluytman, Deputy Speaker

Other Members (17)

Mr. J.N. Aaron

Mrs. L.N. Branco

Mr. M. Corrica

Mr. E.H.A. Fowler

Miss J. Gill

Mr. W. Hussain

Miss S. Jaiserrisingh

Mr. K.M.E. Jones

Mr. M. Nissar

Dr. L.E. Ramsahoye

Mr. J.G. Ramson

Mr. P.A. Raymon

Mr. E.M. Stoby, J.P.

Mr. S.H. Sukhu, M.S., J.P.,

Mr. C. Sukul, J.P.

Mr. H.A. Taylor

Mrs. L.E. Willems

(Absent)

Members of the Opposition

Liberatory Party (2)

Mr. M.F. Singh, Leader of the Opposition

Mrs. E. DaSilva

OFFICERS

Clerk of the National Assembly – Mr. F.A. Narain

Deputy Clerk of the National Assembly – Mr. M.B. Henry, AMBIM.

22.5.74

National Assembly

2.10 – 2.20 p.m.

2.10 p.m.

PRAYERS

ANNOUNCEMENT BY THE SPEAKER

LEAVE TO MEMBERS

The Speaker: Leave has been granted to the hon. Member Mr. Hoyte, the hon. Member Mr. Clarke and to the hon. Member Mr. Duncan for today's Sitting.

PRESENTATION OF PAPERS AND PREPORTS ETC.

The following Paper was laid:

Commonwealth Citizenship Order 1974 (No. 63), made under section 15 of the Guyana Citizenship Act, Chapter 14:01, on the 13th of May, 1974, and published in the Gazette on the 18th of May, 1974. [**The Minister of Parliamentary Affairs and Leader of the House on behalf of the Prime Minister**]

QUESTIONS TO MINISTERS

Set Books for English Literature at 1974 Preliminary Examination

Mrs. DaSilva: Mr. Speaker, I wish to ask the hon. Minister of Education and Social Development the Question that stands on today's supplementary Order Paper: WILL the Minister state when the name of the set book for English Literature for the 1974 Preliminary Examination for Government Primary Schools will be made available to the Headmasters?

The Speaker: Hon. Minister of Education and Social Development.

The Minister of Education and Social Development (Miss Baird): Mr. Speaker, in response to the question asked by the hon. Member, Mrs. DaSilva, the answer is as follows: The name of the set book for English Literature for the 1974 Preliminary Certificate Examination, which is “The Wooden Horse” by Eric Williams, published by Longman’s, was made available in the Official Gazette of the 27th October, 1973.

Mr. DaSilva: May I please, sir, ask a Supplementary Question? The Minister has stated that the name of the book “The Wooden Horse” was made available in the Official Gazette on the 27th October, 1973. This is now seven months since the original question was asked. I would like to ask the hon. Minister if the teachers of the schools are supposed to get the names of the Set Books for the Official Gazette or are they not to be notified by the Ministry of Education?

The Speaker: Hon. Minister of Education and Social Development.

Miss Baird: The teachers are supposed to be notified before and the name of the book must be published in the Gazette.

Mrs. DaSilva: Thank you, sir. I would ask the hon. Minister to be good enough to see that her Ministry notifies the teachers as they are supposed to. I checked on this when this Supplementary Paper came out today and I was notified by the teachers – because they had come to me over this matter – that it causes great inconvenience to the pupils; they lose three months out of the year.

The Speaker: That is not a question. Hon. Member Mrs. DaSilva do you wish to ask a question?

Mrs. DaSilva: Thank you, sir, I should like to ask the hon. Minister to give the assurance that the teachers get the notification in good time so as not to cause a delay and inconvenience.

The Speaker: That is not a question, that is a comment.

PUBLIC BUSINESS

MOTION

REMISSION OF STAMP DUTY

Whereas in accordance with section 13(36) of the Tax Act, Chapter 80:01, and of Standing Order No. 57(5)(b) Promoters of the Guyana Presbyterian Church Bill 1974, paid to the Accountant General on the 5th of January, 1974, the prescribed stamp duty of \$100.00;

And whereas the Bill was enacted by parliament on the 2nd of March, 1974;

And whereas in accordance with section 13(36) of the Tax Act, Chapter 80:01, the National Assembly may remit payment of the stamp duty:

Be it resolved that the National Assembly approves of the remission, to the Promoters of the Guyana Presbyterian Church Bill, 1974, of the stamp duty of \$100.00, paid to the Accountant General in respect of the Bill.

[Miss Jaiserrisingh]

Miss Jaiserrisingh: Your Honour, I beg to move the Motion standing in my name on the Order Paper. This Motion is a simple and straightforward one and merely seeks to the National Assembly's approval of a refund to the Guyana Presbyterian Church of the stamp duty paid on the Private Bill which incorporated the Church and which was passed by the National Assembly earlier this year. I understand that it is the practice of the National Assembly to approve of

refunds of a stamp duty paid in respect of Private Bills dealing with religious and charitable organisations. I therefore commend this Motion to the House for approval.

The Speaker: This Motion requires a seconder.

Mrs. Willems seconded.

Question proposed, put and agreed to.

Motion carried

BILLS – SECOND READING

PUBLIC AUTHORITIES (LIMITATION OF ACTIONS) (SPECIAL PROVISION) BILL 1974

A Bill intituled:

“An Act to remove the requirement that actions by certain public authorities for the recovery of monies be brought within a prescribed time and to provide for matters incidental thereto.

[The Minister of Foreign Affairs and Justice]

The Minister of Foreign Affairs and Justice (Mr. Ramphal): Mr. Speaker, I rise in a somewhat vicarious capacity in respect of the Second Reading of this Bill, which was signed by my colleague (Mr. Jack), and of whose responsibility the Ministry of Agriculture, in due course, is the operative agency. It is a measure that is shorter in its purport than the various sections would suggest.

Very simply, under the Drainage and Irrigation legislation the proprietors of lands which fall within a drainage area are liable to pay, by way of rates, maintenance costs and a proportionate amount of the capital costs incurred by the Drainage and Irrigation Board in providing drainage facilities. The responsibility for collecting these amounts varies whether the land falls within the Local Authority or not. Where the land falls within a Local Authority the responsibility is that of the Local Authority. Where it falls outside, it is the responsibility of the Drainage Board. The Limitation Act which is now Chapter 7:02 and the Title of Land (Prescription and Limitation) Act prescribe a period of these years for the recovery of monies claimed generally, whether by way of rates or rents.

It should be noted – it is a matter of some importance in relation to the measure – that the law of Limitation does not have the effect of extinguishing, either by reason of the expiration of a limitation period or otherwise, the debt itself. It merely prescribes against its enforceability by way of a civil action. It has been considered that the agencies of the State, whether they be the Local Authority, in one sense, of the Drainage Board in another, these public authorities, should not be subject to the operations of this period of limitation and in like manner neither should those who have benefited from the provisions of drainage facilities be relieved of the responsibility for making these payments from which they have benefited through the passage of so short a period as the period of three years they have prescribed.

What the Bill seeks to do, therefore, is to change this position to allow the debt to continue to be recoverable despite the passage of time and for the burden of the financial payments to fall quite properly where it ought to fall. The measure does seek to ensure that these amounts may be recovered notwithstanding that the period of three years has already elapsed, but this is subject to certain very carefully prescribed conditions. It does not have the effect of reversing decision already made through the legal process of the Courts, and where the land has changed hands as a result of the passage of time, then the person on whom the responsibility in law to meet the arrears may now fall will have a right of indemnity against the person who owed the land during the period in respect of which the arrears accrued.

[Mr. Ramphal contd.]

2.20 p.m.

I think hon. Members will agree that, within the obvious limitations of the objectives of the Bill, of trying to ensure that these debts are recoverable and people are not freed of their responsibility, some care has been taken to ensure that hardship does not arise.

So saying, I have the honour to move that the bill be read a Second time.

Question proposed

The Speaker: Hon. Leader of the Opposition.

The Leader of the Opposition (Mr. M.F. Singh): Mr. Speaker, listening to the hon. Minister, I got the impression that this proposed legislation was aimed primarily at collections due to the Drainage and Irrigation Board. However, the legislation is much more far-reaching than that, and it needs to be examined, as I will in a moment examine.

Let me say, before going any further, that we cannot support this Bill. It is, to say the least, in our opinion, highly immoral on the part of the Government to propose legislation of this nature in a country which is supposed to be a democracy, but particularly in view of recent legislation promulgated by the Government, Act No. 25 of 1973. Let us look at that Act, regardless of what the intention may be, and let us look at the legal implications of the proposed legislation.

Before I deal with this, let me make some introductory remarks by saying that this legislation is contrary to all the accepted tenets in a democracy in respect of legislation for the payment of money. One of the fundamentals in a democracy is that money legislation should never be enacted which would be retroactively penal in nature. In other words, an existing right or an existing privilege should not be taken away with retroactive effect, otherwise, how would we be able to transact business if we are to transact business on the basis that the law that exists today

can be changed at any time retroactively, so that business which was transacted in the past becomes not in accordance with existing law.

Let me give an example. I think this is so important that one must spend some time in really appreciating what is involved here. Let us suppose that last year, instead of running up and down the country trying to make some impact on the elections, in spite of what happened, I was selling law books. Let us suppose that I sold ten sets of Halsbury's laws of England, which any lawyer would know about, at \$1,000 per set, and the Government now passes legislation saying that each set of Halsbury's Laws, that I sold, must have collectible on it, a consumption tax of 25 per cent with effect from January last year.

I sold these ten sets during last year but the legislation is retroactive with effect from January last year. That means that as the seller of those books, I would be called upon to pay to the Government in respect of books sold last year, \$2,500. Suppose I am given the right to collect that 25 per cent from each one of the ten people to whom I sold the books I then have the right to go to each one of those ten people and collect \$250 from each to make up the \$2,500. But the question arises: Will I, in fact, be able to collect it? Will I, in fact, be able to find those people? Some may have emigrated. I know of a few lawyers who within recent time have emigrated. Some, because of the economic situation in the country, may be men of straw. I will never be able to recover anything from time. I may not be able to find some of them, so that in the final analysis, I may well be called upon to pay a significant part of that \$2,500 from my own pocket.

It is not the same type of legislation we are now trying to enact here? The Government may advance all sorts of technical agreements to say that since these monies were originally owed and payable; the legislation cannot be considered retroactive. Let us examine the Government's conduct in this matter. Let us look at the existing law. What is this proposing to amend?

The Bill No. 14 of 1974 proposes, it says, to amend “section 314 of the Municipal and District Councils Act and shall have effect as if there had been substituted for section 17 of the Municipal and District Councils (Amendment) (No. 2) Act 1973 at the time of its enactment the following section” .

Let us look at section 17 of the Municipal and District Councils (Amendment) Act 1973, that is, Act No. 25 of 1973. It states:

“(1) Section 314 of the Principal Act is hereby amended by the addition thereto of the following subsection as subsection (3) thereof –

‘(3) The provisions of the Limitation Ordinance and the Title to Land (Prescription and Limitation) Ordinance shall not, in so far as they prescribe a period of limitation within which a sum of money may be recovered, apply to a claim by a council.’

In December of last year, what we were told was this: “In future, don’t expect that limitation will apply. In future, limitation will not apply, you will have to pay regardless of three years, four years, five years, or otherwise.” I say, “in future” because of the second part of this enactment. This is important has not been brought out at all.

In the second part of this enactment, it says:

“Nothing in subsection (1) shall enable any action to be brought which was barred before the enactment of this section, except in so far as the cause of action or right of action may be revived by an acknowledgement or part payment made in accordance with the provisions of the Limitation Ordinance.” What it is saying is that even though in the future one will not be allowed to claim limitation up to the present time, anything that is statute barred at the passing of this in December will remain statute barred except in respect of revival under the existing law. If it were

revived by an acknowledgment or otherwise, okay. But as long as it is properly statute barred, it will remain statute barred. That was the law.

This is a point that has not been brought out by any of the national newspapers or even by any of the ordinary newspapers. Even the People's Progressive Party's newspaper, the Mirror, has not brought out, that as recently as December last year, the population of Guyana was told that it would not have to pay arrears which were statute barred. Nobody has brought this out. This is what is important. The Government legally represented to the people of Guyana that whatever was due, owing and payable, but was statute barred up to the passing of the law in December, would not be recoverable; it would remain statute barred. That is the definite and positive effect of subsection (2) of section 17.

I read it a second time because it crops up again:

“Nothing in subsection (1) shall enable any action to be brought which was barred before the enactment of this section, except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with the provisions of the Limitation Ordinance.”

That is the law which exists at the present moment.

2.30 p.m.

Let us look at what the proposed amendment states.

The proposed amendment starts off the same way.

“Section 314 of the Principal Act is hereby amended by the addition thereto of the following subsections –

[Mr. M.F. Singh contd.]

‘(3) The provisions of the Limitation Ordinance and the Title to Land (Prescription and Limitation) Ordinance shall not, in so far as they prescribe a period of limitation within which sum of money may be recovered, apply to a claim for a sum of money by a council ...’

The proposed amendment goes on to state –

“and whether or not such sum would have been irrecoverable prior to the enactment of this subsection by virtue of either of the said enactments.”

The proposed amendment states that what was previously statue-barred is now enforceable. So the effect of this proposed amendment is to nullify section 17(2) of the Municipal and District (Amendment) Act 25/1973. Where section 17(2) of the Municipal Council (Amendment) Act 25/1973 said everything previously statue-barred will remain statue-barred this proposed amendment in may this year is saying everything which was previously statue-barred will not be statue-barred. It will be enforceable. And there is no time-limit. You can go back any time. The only palliative which they give is stated in section 4, of the Public Authorities (Limitation of Actions) (Special Provisions) Bill, No. 14 of 1974, as follows:

“Where by virtue of subsection (3) a sum of money is claimed as rates due in respect of an estate from the proprietor thereof for a period when he was not the proprietor any sum of money paid by him in satisfaction of that claim shall, subject to any agreement to the contrary, be deemed to be money paid by him at the request o the person who was the proprietor during the said period.”

They are admitting that the money will be recoverable from the present owner. That is true. By parate execution you can do that. You are recovering the money from the present owner. He is the person from whom you will get the money.

What does this mean? It means that everything that was statue-barred in December last year by this Government is changing its mind and everything that is declared to be statue-barred in December last year will no longer be statue-barred. It is opening up everything without any limitation and from whatever time it wishes to claim. It is opening up everything to claim way back and, a few short months after December, in May of this year, it is saying that the present owner will be liable to pay all the money but he has the right to recover from anybody who was a previous owner during the period for which he has to pay.

What does he have to do? Apart from the spate of legislation which this could probably start, can the present owner really find all the previous owners who may be liable to him in respect of monies that he has to pay? Some may be out of the country. We know there is mass emigration out of the country. Let us look at the passport office every morning or look at the U.S.I.S. consulate. People are selling their properties and migrating. Will he be able to find them and recover from them this money which, by law, he initially has to pay? If he does not pay it he can suffer the loss of his property. So in the final analysis he has to pay it.

Even if he can find the person, will that person have the means to pay? That person may be a man of straw now in the economic circumstances prevailing in the country at the present moment. A man normally sells his property because he cannot afford to continue keeping it, because he wants to do something else or because he has nothing and he needs the money. Will he be able to pay what is claimed from him? If he is a man of straw what happens? The present owner will suffer. He will have to pay. He pays the whole sum of money and he gets no redress because even though he has the right to recover he cannot, in fact, recover.

What is so immoral and wrong about it is that at the time of the passing of the Municipal and District Council (Amendment) Act 25/1973 in December last year the Government gave a positive legal assurance to the population that anything that was statue-barred at the time of the passing of the Bill would remain statue-barred at the time of the passing of the Bill would remain

statue-barred. Now they are saying that all that is here should be replaced by this proposed amendment. That is, in fact, what they are saying:

“Section 314 of the Municipal and District Council Act shall have effect as if there had been substituted for section 17 of the Municipal and District Councils (Amendment) (No. 2) Act 1973 at the time of its enactment the following section –”

So they are taking out section 17 of the Municipal and District Councils (Amendment) (No. 2) Act 1973, which has the maintenance of statue-barred actions, that you cannot enforce anything that was statue-barred at the time, and they are putting this proposed amendment which says that whether or not anything was statue-barred you can recover.

I am a farmer. Last month before I say this amendment that is now proposed I examined the law and I noted that as recent as December the Government had given these assurances in their law. Am I not entitled to assume that these assurances were given in good faith by the Government? Am I not entitled when I am purchasing a property to regard anything that was statue-barred in December last year as not being capable of enforcement? Rates and taxes are covered by this, in addition to drainage and irrigation. It does not exclude rates and taxes. The intention might have been drainage and irrigation rates, but the law is so wide that it includes rates and taxes – therefore when I am negotiating a purchase price if for example, the man's property had eight years' rates and taxes due or drainage and irrigation arrears amounting to eight years, am I not entitled to assume, in view of the Government's legislation as late as December last year, that this state of affairs would continue? As I not entitled to assume, in bargaining on a purchase price, that five years but I must bother about three years and therefore I must bargain for a purchase price taking into consideration the three years taxes that are not statue-barred? Am I not entitled to assume that, in view of the Government's action in December last year? Of course I am.

Therefore, when the government comes in May this year and says; “What we did in December, forget it; we have changed our minds. We are now doing our new thing. We are

saying that what we did then must not be considered and we are opening the flood-gates and making it possible for anything that was owed, no matter how far back, as long as it was legally owed at the time that it was owed, to be enforceable regardless of the laws of limitation.” This, I contend, must be morally wrong; it must be something that we must object to.

The amendment goes on in similar vein. The Municipal and District Council (Amendment) Bill 1973 also amended the Local Government Act (Section 23 (1) (a) amended section 18 of that Act by adding the following subsection as subsection (2) thereof –

“The provisions of the Limitation Ordinance and the Title of Land (Prescription and Limitation) Ordinance shall not, in so far as they prescribe a period of limitation within which sum of money may be recovered, apply to a claim by a local authority.”

Subsection (2) of section 23 of the Municipal and District Council (Amendment) Act 25/1973 states:

“Nothing in paragraph (a) of subsection (1) shall enable any action to be brought which was barred before the enactment of this section, except in so far as the cause of action or right of action may be revived by an acknowledgement or part payment made in accordance with the provisions of the Limitation Ordinance.”

The same thing is being said therefore in respect of Local Government rates and taxes and dues. From December last year there was no limitation but at the same time anything that was statute-barred before the Act was passed in December 1973 would remain statute-barred.

2.40 p.m.

In the Amendment now proposed the Government is saying exactly what it said in respect of the Municipal and District Councils Act, that,

[Mr. Singh continued]

“Those provisions of the Limitation Ordinance and the Title to Land (Prescription and Limitation) Ordinance shall not, in so far as they prescribe a period of limitation within which a sum of money may be recovered, apply to a claim for a sum of money by a local authority and whether or not such sum would have been irrecoverable prior to the enactment of this subsection by virtue of either of the said enactments.”

The same wording and the same proviso that if you are not the owner at the time, you can, after you have paid, have a right of recovery against the person who was the owner at the present time.

Subsection (2) of the said section 23 had never had been enacted. So the Government is taking out what I read just now, subsection (2) of Section 23 of Act 25, the one which states that if they were statute-barred at the time they would remain statute-barred. The same sort of thing has been done in respect of local government. The Government is really saying that even though it have the legal assurance in December 1973 it has changed its mind and no matter what a person may have done, as a result of these assurances, it is now saying that the arrears must be claimed no matter how far back they may go.

As I said before, the only palliative is that in respect of a period of previous ownership you can go and recover from the man if you can find him, if he has the money to give you and if he is willing to give you; otherwise you have to sue him for it. Obviously this must be highly immoral. As far as I know, it has always been a fundamental concept of law that any undue delay in the enforcement of rights would cause you to lose those rights. Lawyers would know that equity recognises this as the doctrine of laches. If the local authorities and the Drainage and irrigation Board do not send out notices of assessment, if they sit on their rights to recover monies due, why should we now give them legal recognition to give effect to such inefficiencies? Why should we now hand them the force of law to help them in their inefficiencies? Are we not putting a premium on such inefficiency? Are we not trying to

legislate for mismanagement? You have three years within which to do this. Surely if you have efficiency officers then can be done within three years. **[Interruption]**

If people do not get their notices of assessment they are lulled into the false sense of security that they do not have to pay anything. This is particularly true of the Drainage and Irrigation Board. Everyone here who has had contact with the farmers in the country districts will know this. Indeed, there are some hon. Ministers who know of the inefficiency of the Drainage and Irrigation Board. There are hon. Ministers who have refused to pay interest because they did not receive notices of assessment in respect of monies due, owing, and payable to the Drainage and Irrigation Board. That is a fact. This Board has been inefficiency for some time. Why? Because instead of employing efficiency, competent people the accent has been on employing party hacks, the accent has been on politics rather than on efficiency.

Some people have not had notices of assessment, and some people have not had any communication at all from the Drainage and Irrigation Board for years. I know this as a fact. Some people do owe a lot of money but you do not even have an acknowledgement of a letter because if you have not sent out a letter, how can you have an acknowledgement? How can you have anything that will help you to revive that debt?

You do not send out anything because of your inefficiency. You lull these people into a false sense of security, into thinking that they do not have to pay. The ordinary people I am talking about: it is the majority of the populace, not the big boys, by and large; we are talking about small people. They are the people who will now be affected by this. We are not going to legalise inefficiency; we are now going to legalise such incompetence and we are going to impose penalties. We are going to penalize not the past owners but the present owners. The present owner has to pay; if he does not pay, he can lose his property. He will have a primary obligation to pay to the Government under the present system. He has the secondary right to go and recover from somebody who may have been owner no matter how many years back they

claim. You have to try and find out who those previous owners may have been and try and recover from them; there is no limitation at all.

Is this what we call democracy? Should we not instead put the accent on doing the job efficiently, on doing the job with competence? Even the Inland Revenue Department cannot go back indefinitely; even the Department is limited to seven years. These people can go back whatever time they want to go back; there is absolutely no limitation regardless of how many owners may have been enjoying occupancy of that property in the past.

Let me repeat: We are setting a premium on incompetence and inefficiency. We are giving it legal recognition. We are taking away rights which had already accrued to individuals, rights which as recently as last December these people were made to understand would continue to be enjoyed by them. Surely it must be wrong for the Government to say one thing in December last year and now come and say something else in May this year.

Clause 5 of the proposed legislation does not materially alter the situation at all. What does it state? The hon. Minister referred to Clause 5.

“Nothing in the amendments effected by section 2, 3 or 4 shall enable any action to be brought in respect of a claim which was the subject matter of an action determined prior to the enactment of any of the respective sections, except in so far as the cause of action or right of action may be revived by an acknowledgement or part payment made in accordance with the provisions of the Limitation Act.”

2.50 p.m.

It merely deals with actions which had already been determined. It does not at all touch on the point which was so forcefully set out in Act No. 25 of 1973, that is, that anything which

[Mr. Singh continued]

was statue barred at that time would remain statue barred. Section 5 dealing with actions determined is nothing at all which would materially affect the situation.

I expect this would be the answer, but it can be no answer to say that the present owner who would legally have to pay or lose his property, can recover from the previous owner. It can be no answer because even though he can recover will he, in fact, be able to recover? Will he be able to find the previous owner? Will the previous owner be a man who is capable of giving him what is rightfully demanded? Will he not be a man of straw in view of the fact that he may have parted with his property? Will he not have emigrated? Will he not have dies? Okay, you can recover, but will you, in fact, recover? That is the material point and that is why I say it is no answer to say that you have the right of recovery.

Let me make a minor point. I think that instead this kind of legislation the Government should concentrate on removing some of the injustices in its present taxation policy instead of putting more oppression on the masses. Why does it get the hard-pressed law officers – I know they are hard-pressed, I know they are hard working, I appreciate the difficulties under which they have to operate – to put into practice something like the promise made by the hon. Minister of Finance in the Budget Speech in December last year? He said that the limitation on debts in respect of the Property Tax would be removed. Why not have that legislation brought before Parliament? We all know that the limitations on debts in respect of the Property Tax is iniquitous – the hon. Minister recognises this. His Budget Speech gave the solemn promise that it will be done away with. Why can we not have that kind of legislation before the House instead of this kind of oppressive legislation. Solemn promises are made and broken.

We appeal to the Government to stop this oppression of the masses and we strongly recommend and urge the Government to withdraw this proposed legislation.

The Speaker: Hon. Minister of Justice do you wish to reply?

Mr. Ranphal (replying): Yes. Mr. Speaker, this House has seldom been treated to so vigorous, indeed so tempestuous, a plea on behalf of delinquent wrong-doers. Indeed, when the hon. And learned Leader of the Opposition spoke as he did I was obliged to remind myself that he must have been speaking in his capacity as an “honourable” and not as a “Learned” Member.

My hon. and learned Friend started out his exposition by trying to draw an analogy between what this legislation seeks to do and the sort of situation that would have arisen had the Government imposed certain taxing measures retroactively.

The hon. Leader of the Opposition said, if I remember him rightly, that had he not been campaigning politically last year but had been engaged instead in selling law books and the Government had retroactively imposed a tax, that this would have created new burdens where burdens did not exist before and, indeed, made unlawful that which was lawful when it was done. I am quite prepared to concede that selling law books might have been a more successful pursuit than that in which the hon. Member was engaged. But there is really no analogy whatever between that situation and the one to which the bill addresses itself.

What the hon. and learned Member was talking about was retroactive taxation. No one on this side of the House takes issue with him on the principles which he sought to adumbrate but his application of those principles to the situation in this case was utterly without justification, it was entirely erroneous and I would like to try to point out to him why this is so.

What the Bill does is not to make unlawful what was originally lawful. What the Bill seeks to do is to change the *status quo* but to avoid a situation in which the *status quo* is changed to the disadvantage of the community at large and the advantage of a single delinquent rate-payer. It has no comparison whatever to the type of situation that he talks about. It has no relevance whatever to the principles that he prayed in aid and I cannot accept his strictures that what the Government is here seeking to do is in any measure akin to retroactive taxation or legislation which makes unlawful that which was originally lawful.

In fact, what the bill seeks to do is to ensure that he burden the responsibility, for the payment of rates remains where it originally fell – on the shoulders of those who benefited from the works of Drainage and Irrigation provided by the appropriate authorities and to avoid a situation in which that burden shifts from those shoulders to the shoulders of the rest of the tax-paying community.

3 p.m.

My hon. and learned Friend spoke with great passion about the oppression of the masses. What the bill is seeking to do is to avoid a situation in which these burdens are passed on to the shoulders of the masses, avoid a situation in which bid landlords, for example, who have already passed on drainage and irrigation rates in the rents they charge their tenants, and avoid paying those rates to the proper authorities, are allowed, if you like, a free pardon, while the rest of the community bears the burden for the provision of drainage and irrigation rates.

My hon. and learned Friend must be a little more careful when he seeks to lay strictures on the Government about the interest of the masses. He must be a little more watchful and, if he was, he would find that it is in those interests and to their protection that the Government's policies are directed, and that this measure is directly concerned.

But the matter can be put much further. My hon. and learned friend waved the legislation of December as a sort of pennant. I should like him to consider, in his capacity as a learned Member, the implications of that legislation. It is, I would venture to urge upon him, the situation that what the legislation did, indeed, what our Limitation Acts always have done only, is to render the debt unrecoverable by action. It did not extinguish the debt, on this I think he will agree, and it did not extinguish the right to recover that debt by process other than action; and therefore, it is not extinguish the right to recover the debt it was possible to recover by process other than action. And he knows that in this case it is possible, has always been possible,

[Mr. Ramphal contd.]

indeed, I believe he himself alluded to it in this observations, to recover it by such a process, by the process of *parate* execution.

What the legislation did in December was to extinguish one form of the recovery of the debt. It left another harsher method, a method which puts up for execution sale, the entire property; it left the owner of the property, of the person who had purchased it, at the mercy of that single remedy in the hands of the drainage authorities. Therefore, it is wrong to convey the impression that, after December, the situation had arisen in which these old debts were no longer recoverable by any means; they were no longer recoverable by action.

In fact, what the Bill seeks to do, in terms of an innocent purchaser of the property, is to extend an act of mercy, because whereas, he faced the situation in which he would suffer all the problems of *parate* execution for the recovery of the debt, he now has at least two alleviating features. The recovery must be by way of action, or can be by way of action, and in those proceedings he has a right to join as a third party through the process of indemnity, the person on whose shoulders the debt originally fell.

What I would have expected from the hon. and learned Member, in his other capacity, was an expression congratulation to the Government for the wisdom and enlightenment of the measure.

Question put, and agreed to.

Bill read a Second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without Amendment, read the Third time and passed.

PUBLIC OFFICERS WIDOWS (AMENDMENT) BILL 1974

A Bill intituled:

“An Act to amend the Public Officers Widows Act.”

[The Minister of Finance]

The Minister of Finance (Mr. Hope): I beg to move the Second reading of the Public Officers Widows (Amendment) Bill. It appears that under section 4 of the Public Officers Widows Act, the situation is provided whereby, if a public officer dies and the Government owes him less than \$100, then his personal representative may collect that \$100 without probate, or similar proof, but if the amount owed the public officer or his estate exceeds \$100, then all the adequate proof will have to be brought, including probate or other proof of the title of the personal representative of that deceased person.

What the Bill before us seeks to do is to increase the limit of \$100 to \$1,000, on the ground that this limit of \$100 was set more than twenty years ago, and we feel now that the situation has so changed that a sum of \$100 is too low a limit. The Bill, in fact, seeks to amend the Act by increasing the limit from \$100 to \$1,000. This, I think, will greatly facilitate the widows of public officers who die and are owed by the Government certain sums of money. I, therefore, commend the Bill for the approval of the House.

Question proposed.

Mr. M.F. Singh: This is the kind of legislation we like to see. It is very commendable on the part of the Government. We would certainly be very happy if the Government would

stick to this kind of legislation which helps people, particularly people in circumstances such a death. They need all the help and all the consideration we can give. This is why I should like to take this opportunity to ask a question, I am really very sorry that the hon. Minister of Foreign Affairs and Justice is not in the House at the present moment, because I would very much have welcomed his hearing what I have to say about the kind of ancillary legislation, going along with this, which we would like to see.

I am referring to the Special Select Committee which was appointed on Wednesday, 8th September, 1971, to consider and recommend changes in the law relating to matrimonial causes, succession of illegitimate children and reputed wives. It was also to consider the law relating to abortion. As far as we are concerned, we do not agree with any enlargement of the laws in relation to abortion. But the law relating to benefits for reputed wives under the Accidental Deaths and Workmen's Injuries (Compensation) Ordinance, is the kind of legislation whereby unfortunate people would benefit. Here the unfortunate widow would benefit.

We all know and, as a former officer in the Deeds and Supreme Court Registry, I know that up to the present time, there is great hardship suffered by illegitimate children and reputed wives as a result of the archaic laws.

It appears to me as though this Special Select committee may not function. I am glad to see that the hon. Minister of Foreign Affairs and Justice is now present. I was merely saying that I welcome the kind of legislation which is before the House and I should like to see more legislation along these lines. We were also concerned about the rights of succession of illegitimate children and benefits for reputed wives under the Accidental Deaths and Workmen's Injuries (Compensation) Ordinance.

[Mr. M.F. Singh contd.]

3.10 p.m.

The Special Select committee may never be revived, and, even so, the personnel would necessarily have to be changed from what it was. I am subject to any contrary advice from the hon. Minister but I certainly think that we are all anxious to see this kind of legislation put into operation. I wonder whether the hon. Minister of Finance, or the relevant Minister, if he cannot answer, would be good enough to tell us what the proposals are in respect of similar legislation like this to give these unfortunate people some amelioration in respect of their present circumstances.

The Speaker: Hon. Minister of Finance, do you wish to reply?

Mr. Hope (replying): Mr. Speaker, unfortunately I am not informed of the particular piece of legislation to which the hon. Member, the Leader of the Opposition, is referring. However, on general terms it is always the government's wish, it is always the Government desire and it is always the Government's policy to make every effort to ensure that it brings legislation to this House which alleviates any difficulties which have been suffered by the masses of this country. In summary, to improve the lot of the people of this country so far as changing and modifying laws are able to do so.

I recognised the hon. Member's words of approval of the legislation before us. I also heard him refer to the legislation which I did propose on the occasion of the last Budget Speech in respect of the limitation of debts for property taxes. I should like the hon. Member to understand that we on this side of the House in terms of taxation are not averse to giving in the right circumstances.

I hop when that piece of modified law comes to the House the hon. Member will have his position clear as to retroactivity.

22.5.74

National Assembly

3.10 – 3.15 p.m.

Question, put and agreed to.

Bill read a Second time.

Assembly in Committee.

Bill considered and approved.

Assembly resumed.

Bill reported without Amendment, read the Third time and passed.

ADJOURNMENT

Resolved “That this Assembly do now adjourn to a date to be fixed. [Mr. Ramsaroop]

Adjourned accordingly at 3.15 p.m.
