LEGISLATIVE COUNCIL

THURSDAY, 3RD MAY, 1951

The Council met at 2 p.m., His Excellency the Officer Administering the Government, Mr. J. Gutch, O.B.E., President, in the Chair.

PRESENT :

The President, His Excellency the Officer Administering the Government, Mr. J. Gutch, O.B.E.

The Hon. the Colonial Secretary, Mr. D. J. Parkinson, O.B.E. (Acting).

The Hon. the Attorney General, Mr. F. W. Holder, K.C.

The Hon. the Financial Secretary and Treasurer, Mr. E. F. McDavid, C.M.G., C.B.E.

The Hon. C. V. Wight, C.B.E. (Western Essequibo).

The Hon. Dr. J. B. Singh, O.B.E. (Demerara-Essequibo).

The Hon. Dr. J. A. Nicholson (Georgetown North).

The Hon. V. Roth (Nominated).

The Hon. G. A. C. Farnum, O.B.E. (Nominated).

The Hon. Capt. J. P. Coghlan (Demerara River).

The Hon. J. Fernandes (Georgetown Central).

The Hon. Dr. G. M. Gonsalves (Eastern Berbice).

The Hon. Dr. C. Jagan (Central Demerara).

The Hon. W. O. R. Kendall (New Amsterdam).

The Hon. A. T. Peters (Western Berbice).

The Hon. W. A. Phang (North-Western District).

The Hon. G. H. Smellie (Nominated).

The Hon. J. Carter (Georgetown South).

The Hon. F. E. Morrish (Nominated).

The Hon. L. A. Luckhoo (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on Wednesday, the 2nd of May, 1951, as printed and circulated, were taken as read and confirmed.

PRESENTATION OF REPORTS AND DOCUMENTS.

The following documents were laid on the table:—

The Report of the Georgetown Planning Commissioners for the period 1st August, 1950, to 31st January, 1951. (The Colonial Secretary).

The minutes of a meeting of Finance Committee of the Legislative Council held on the 26th of April, 1951. (The Financial Secretary & Treasurer).

ORDER OF THE DAY

GENERAL LOAN AND STOCK (AMENDMENT) BILL, 1951.

The ATTORNEY-GENERAL: I beg to move the first reading of a Bill intituled:

"An Ordinance further to amend the General Loan and Stock Ordinance by making provision for the creation of registered stock and the exchange or conversion of inscribed stock into registered stock."

The COLONIAL SECRETARY seconded.

Question put, and agreed to.

Bill read the first time.

MUSIC AND DANCING LICENCES (AMENDMENT) BILL, 1951

The ATTORNEY-GENERAL: I move the first reading of a Bill intituled:—

"An Ordinance to amend the Music and Dancing Licences Ordinance with respect to the granting of licences."

The COLONIAL SECRETARY seconded.

Question put, and agreed to.

Bill read the first time.

INCOME TAX (AMENDMENT) BILL, 1951.

The Council resolved itself into Committee to resume consideration of the Bill intituled:

"An Ordinance further to amend the Income Tax Ordinance with respect to the imposition and evasion of income tax."

The ATTORNEY GENERAL: When the Council adjourned yesterday afternoon we were discussing clause 13.

Clause 13.—*Deductions in respect of life insurance, etc.*

Mr. SMELLIE: Since the adjournment I have had an opportunity to study the effect of the proposed amendment of the deduction from 7 to 10 per cent., and I am satisfied that no hardship would be created thereby. I have got the rates of premiums with regard to 10, 15 and 20-year endowment policies with respect to the ages of 20, 30, 40 and 50. With regard to the 15-year and 20-year endowment policies, an allowance of 10 per cent. per $1,000, which would be $100, is more than the premiums on that particular type of policy. As regards the 10-year endowment policies, a young man of 20 will not get complete relief of the premium he pays, but it will be a very close thing. As he grows older—to 30, 40 and 50 years—the position will be rather worse for him, but not seriously so. I think the idea behind this clause of the Bill—to promote thrift and not to encourage short-term policies—is a good one, and I am therefore in favour of the amendment.

While on the subject of amendments I may recall that I made some remarks yesterday about last-minute amendments. I would like, if I may, to say that I hope that in respect of the Amerindian Bill, which is still in the Committee stage, we will be supplied in good time with copies of further amendments which are proposed.

The ATTORNEY-GENERAL: I think it will be appreciated that amendments have to be put in proper form, and sometimes they are not ready until just before the meeting of Council, but every effort is made to supply hon. Members with cyclostyled copies of amendments before they are moved in Council.

Dr. JAGAN: I am against the proposed amendment, because I do not see any real reason why an amendment should be introduced at this time. The Bill, as printed, seeks to give an allowance of not more than 7 per cent. of the capital sum. I think I heard the hon. the Financial Secretary say that a similar provision exists in Barbados, and I do not see why we should be more generous than the people in Barbados. I very well appreciate the fact

that insurance is possibly one means of ensuring security for old age, or as one reaches an advanced age, and that it is also a means of saving money, but at the same time one can save money by putting it in the Post Office Savings Bank, or in one of the commercial Banks. I know that the interest paid on deposits with the Post Office Savings Bank is rather generous, and I do not know whether interest earned from insurance companies is any greater. Interest earned on deposits at the Post Office Savings Bank is chargeable for income tax. I hope I am correct in that statement. I therefore do not see why on an insurance policy, which on maturity brings a lump sum plus interest to the policy holder, any very generous allowance should be given in respect of income tax. That is why I feel that an allowance of 7 per cent., as provided in the clause as printed, is sufficiently generous.

In paragraph (b) of the proviso it is provided that no deduction shall be allowed in respect of any annual premium or contrbution beyond an amount equal to one-sixth of a person's chargeable income. There may be cases where an insurance policy is taken out, not merely for the purpose of saving but with the object of evading income tax. If an individual in the higher income bracket takes out a very large insurance policy one cannot help feeling that his object is to evade the payment of income tax to the extent of one-sixth of his chargeable income. I am against the amendment and shall vote for the clause as printed.

Mr. WIGHT: May I ask the hon. the Financial Secretary what is the rate of interest payable on deposits at the Post Office Savings Bank and the commercial Banks? The reason why I ask the question is because some of us who do exercise a balanced judgment, w uld be able to say whethe the interest payable can be described as generous or not.

The FINANCIAL SECRETARY & TREASURER: I do not think all this is quite relevant, but I would like to say that the interest paid at the Post Office Savings Bank is 2.4 per cent. on deposits up to $8,000, which is the maximum amount which can be deposited by any one individual. Although I would not describe it as generous it is nevertheless a fair rate of interest under present conditions, especially as the commercial Banks pay something like 1 per cent. on deposits up to a certain limit, and above that no interest at all. Although 2.4 per cent. is not particularly generous it is a very good rate of intere t in all the circumstances prevailing today. I do not quite know where this leads to but I have given the answer.

Mr. FERNANDES: The idea of allowing one-sixth of a p rson's income to be free of income tax is in order to encourage people to take up insurance —not for the purpose of cashing in on the policy when it matures after 20 years, as the hon. Member suggested, but to make sure that a man's family is provided for as far as possible in the event of hi death. The difference between taking out an insurance policy and putting money on the Bank is far greater than the comparison we had yesterday between a per on who acquires a house and another who buys a motor car. I do not think the argument put forward by the hon. Member is worthy of very serious consideration at this point, in view of the reasons I have suggested for the encouragement of persons to take out life insurance.

Dr. JAGAN: I think the hon. Member has really justified my argument, because a man who takes out an insurance policy makes far better provision for himself and his family than

one who puts his money on the Savings Bank. On money deposited in the Savings Bank no deduction is allowed in respect of income tax. For that reason I am contending that the deduction for life insurance should not be increased from 7 to 10 per cent.

The FINANCIAL SECRETARY & TREASURER: The hon. Member is curiously ungenerous today. I have not seen him in such a severe mood. Here is a tax concession which is well founded, allowing as a deduction a reasonable proportion of a man's income in order that he might provide against old age, or against liability of his family if he should die prematurely. That is a recognized principle, and the safeguard under the law is that it is limited to one-sixth of a person's chargeable income. It has been there all the time. All this clause proposes to do is to put a further brake so as to prevent anyone using that one-sixth for a purpose other than that which this section of the Ordinance was intended to provide. That is to say, using it as a means of putting by money for himself and avoiding income tax in that way by taking out a single premium policy or a very short-term policy, thereby defeating the object. In doing that clause 13 seeks to limit the premium which does not exceed 10 per cent. of the capital sum of the policy.

The hon. Nominated Member, Mr. Smellie, has explained to us that he is satisfied that, with that percentage, practically all true life insurance policies are admissible within the limit of one-sixth of a person's chargeable income. Insurance premiums on 10-year endowment policies just get in with a little bit of excess. I have in my hand the "Demerara Life" tables, and I see that the premiums on 10-year endowment policies range from $103 at age 15, to $107 at age 40, which means that a person taking out such a policy at 30 and paying a premium of $105, would only be allowed $100; the extra $5 would be disallowed. Assuming that he is not a wealthy man, and that he is only paying 6 per cent. tax, it means that he would have to pay 30 cents per year more in income tax. So I think we can ignore the difference which 10 per cent. will involve in respect of 10-year policies.

As the hon. Member for Georgetown Central (Mr. Fernandes) said, Government wishes to ensure that it does not deprive a man of means to provide for his family, and that is why it allows deductions of this nature with respect to life insurance, and in the case of public officers' contributions to the Widows and Orphans' Fund, because they are a type of provision by which a man makes sure that his dependents are properly provided for in the case of death. I think the hon. Member is pressing unduly hard a condition which is very reasonable, and I cannot understand why one should wish to upset it.

Clause 13 put, and agreed to.

Clause 16.—*Amendment to Section 36 (3) of the Principal Ordinance.*

Mr. SMELLIE: I see that it is intended to substitute for the words "or bonus" the words "bonus or allowance." May I be enlightened as to the precise meaning of the word "allowance"?

The ATTORNEY-GENERAL: In subsection (3) of section 36 of the Ordinance you find:

> The expression "Remuneration" shall include not only monies paid as salary or wages, overtime, or bonus, but also the annual value of any residence, quarters, board and lodging, or other allowances in kind received by the employee in respect of his services."

It is not bonus but, maybe, some sort of perquisite or concession or advantage or benefit, which a person derives and which may be translated in terms of money for the purpose of the section.

Mr. WIGHT: May I ask the hon. the Attorney-General whether the allowance granted to hon. Members of $150 a month would come under that terminology?

The ATTORNEY-GENERAL: I think the hon. Member, as a member of the legal profession and as one affected by the question which he has asked, may seek other ways of clarifying that. I am not prepared to give him advice free gratis and for nothing.

The FINANCIAL SECRETARY & TREASURER: Is the hon. Member clear on the point?

Mr. SMELLIE: I am clear on this, that it is a generic term.

The FINANCIAL SECRETARY & TREASURER: The charging section of the principal Ordinance charges Income Tax on *"gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise."* It is section 5 of the principal Ordinance. What we are dealing with here is a section calling on an employer to provide certain information. If you read it carefully, sir, it would be seen that the word "allowance" in section 36 (3) of the principal Ordinance is only used in respect of remuneration in kind. This insertion of "allowance" is just to make it clear that an allowance whether paid in money or kind must be included as remuneration, and reported for Income Tax purposes.

Clause 17—Insertion of new sections 36A, 36B, 36C in the Principal Ordinance

The ATTORNEY-GENERAL: I beg to move the insertion of the words "shall within the time fixed by the Commissioner" between the words "Commissioner" and "give" in the second line of the new section 36A.

The FINANCIAL SECRETARY & TREASURER: As no Member wishes to speak on this clause, I think, in view of the fact that this has caused some discussion outside I should say something about it. The clause gives wider powers to the Commissioners in as much as they will now be able to call upon a third party for information not about their own business but about the business affairs of somebody else which happened to pass through their books. It does not exclude the Banks from the liability to give such information. I think that has caused a certain amount of alarm in the minds of the Banks and of some section of the commercial community. Although it was the commercial community which some years ago pressed on Government that we should include a clause to this effect, I want to give the assurance that these powers, if granted, would be used by the Income Tax administration with the utmost discretion and the administration would not seek to impose on any commercial firm any additional burden in the way of giving information. By that I mean, the Income Tax administration would not suddenly call upon a commercial house to provide a complete record of transactions and expect all those details to be produced off-hand. The powers will be used with discretion and, I am quite sure, the assurance already given to the representatives of the Chamber of Commerce in that matter will be honoured.

Mr. WIGHT: The only thing is, this gives me some matter for consideration. As the hon. the Financial Secretary and Treasurer has said, it is perfectly true that the administration

of the Income Tax Department will not unnecessarily burden commercial houses with supplying detailed information. But what has to some extent given me some measure of consideration is, while it may be true the point really arises under clause 6 of the Bill, is the question of bad debts; that is, debts known to us as prescribed debts, the writing off of debts. It is difficult to persuade the Income Tax Commissioners that such debts should be written off when they are uncollectable either by law or otherwise. If you are required to give information, as provided under this particular clause, one would automatically see that the corollary is, in the case where debts are prescribed the Commissioners should have the power to enquire of those persons whether they intend to pay those debts or not, those debts being prescribed by law, and if the answer is the debtor does not intend to pay the debt and intends to plea prescription, then it seems to me the Income Tax Authorities should provide some method whereby either under clause 6 or this clause prescribed debts or irrecoverable debts in law should be allowed and be written off. At the moment it is very difficult to persuade them to write off certain debts. To give an example for the benefit of those Members not of the legal profession, if a man owes a firm a few dollars after three years he cannot be sued as he can plead prescription, but there are many cases in which the Income Tax Commissioners refuse to allow the writing off of such debts on the ground that the amount should have been collected. In certain cases in this Colony where credit is given largely and to a considerable extent it seems to me that the particular merchant or person who is liable to be so taxed should be given credit for these amounts, since the amounts are irrecoverable at law; he should be allowed to write that off his books and be given credit accordingly.

The FINANCIAL SECRETARY & TREASURER: The remarks of the hon. Member are quite irrelevant, as this particular clause has nothing to do with that. Nevertheless the answer is, it is quite wrong to assume that because a debt is prescribed in law that necessarily makes it a bad debt. Prescription in law merely means the person owing the debt cannot be sued for it, but that does not mean the debt is bad or is not going to be paid. I am advised it is pleaded as a defence against legal action from a business point of view, but it does not mean it is a bad debt because quite possibly it would still be collected. We must assume that the person to whom the debt is owed is a good businessman and would collect it and that the man who owes the debt is honest and would pay. Therefore the Income Tax administration says bad debts have to be established as "bad" before a deduction is allowed. That has nothing to do with this clause.

Mr. WIGHT: It is amazing how we get up and rule things out of order. The hon. the Financial Secretary says the point is irrelevant and, therefore, it is out of order. The point I am making is, the Commissioners have power to require information. Surely under this power, if you say a debt is irrecoverable because it is four years old and cannot be recovered at law as the debtor can plead prescription, the Income Tax Authorities should enquire of the particular person. If the person says "I owe the money, but I do not intend to pay," then in justice and equity the Income Tax Authorities should allow that amount to be written off.

Dr. JAGAN: I want to suggest that the hon. Member is out of order and I ask you, sir, to rule. We are dealing with a different question, the right of the Income Tax Authorities to ask questions and verify something given in a return and not whether bad debts should be allowed or not allowed for Income Tax purposes. I think the hon. Member is out of order.

Mr. WIGHT: Those bad debts are returned. Perhaps the hon. Member,

I do not know, has not got to submit returns of that nature, but I have to advise people who have to make returns of that nature.

The FINANCIAL SECRETARY & TREASURER: The hon. Member is both irrelevant and illogical. If you can argue about bad debts under this clause you can argue about depreciation and other things. It has nothing to do with this particular clause. Merely because it is a return does not entitle one to argue what is a return or the kind of information asked for.

Mr. FERNANDES: I would like to move a very minor amendment to this clause. In section 36A (1) which says *"Every person who may be so required by the Commissioner, give orally or in writing as may be required. . . ."* I would like to add just two words "in writing" between the word "Commissioner" and the word "give". You may have a telephone conversation and things of that kind. I have to be very careful with this question because in this very Chamber about four years ago when the Chamber of Commerce met the Income Tax Specialist that was sent out here, I it was who recommended very strongly that powers like these be given because it was my opinion that unless the Income Tax Commissioners have these powers they can never completely stop the evasion of Income Tax. I was told then that they were too drastic. I am pleased to see after four years that Government is pleased to ask this Council for these powers, but I would not leave it to the Commissioners to ask for information on the telephone or verbally. This is an important thing. This is where someone has to give information about somebody else, and, I think, all such information required by the Income Tax Commissioners should be required in writing so that the person who gives the information would at least have something in writing to show that he was pressed by the Income Tax Commissioners to disclose those facts. I am asking you to accept my amendment. It does not affect the Bill otherwise. It only prescribes the means by which the information is requested. You will have the statement properly documented on both sides. I do not like the word "orally". I always like to see important views of this kind put down in writing. Where a person is required to give some information by law there can be no objection to giving it in writing, in the same way where the Commissioners request this information and one is open to a penalty of $1,000 for failing to give it at least it should be in writing.

Mr. MORRISH: I wonder if the hon. the Financial Secretary and Treasurer can tell me whether similar powers are given in the United Kingdom, because I have made certain enquiries and I have before me a letter written from one of the big five of Chartered Accountants in London, and, if I may read a very small part of that letter, it reads thus:

> "Clause 17 gives the Commissioner the power to search etc., a power in excess of any comparable powers of the Inland Revenue Department in this country."

If, as is suggested, this clause would give the Commissioners the power to require or obtain information from the Banks, Solicitors and Auditors, I think, that efforts should be made to have those powers reduced.

The FINANCIAL SECRETARY & TREASURER: The powers which are sought to be obtained in this Bill are in advance of those obtaining in the United Kingdom, but I have reason to believe there is going to be a greater advance in the United Kingdom in respect of similar powers. I may tell the hon. Member that even more drastic powers exist in the Income Tax legislation of Canada and Australia, and such powers limited to some extent already exist in Barbados and to the same extent in Mauritius and one or two other Colonies. It is, of course, unfortunate that we have not yet

secured some measure of uniformity in these matters, but hon. Members can understand how that happened. We have been working on this model Ordinance, drafted away back in 1928 by experts in England, and since then various changes, adjustments, modifications and improvements have been made in various Colonies and, as they are made, they are adopted and followed by other Colonies. I agree that the time is quite ripe for a conference of Colonial Income Tax Authorities with the idea of getting some greater degree of uniformity than exists at present. In other words, we follow each other step by step. Even though these powers do not exist at present in other Colonies, they will proceed as soon as possible to get them.

Mr. WIGHT: I am going to confine my remarks to the word "person". I think Members who are of the legal profession will agree with me that they are included in the word "person" and, therefore, under this clause they may be called upon to disclose their client's business which, they know fully well, is to a certain extent privileged communication conveyed to them. This is my opinion but, perhaps, I may be wrong. Perhaps the hon. the Attorney-General may correct me or the hon. the Financial Secretary may correct me, whether or not there will or may not arise a case when the Commissioners may think it fit and proper to call upon a lawyer, who is a person, to disclose hi client's business?

The FINANCIAL SECRETARY & TREASURER: I invite the hon. Member not to press it. I understand the hon. Member for Georgetown Central wants the requested information to be a written statement in every case. There may be a case where some person has been summoned to the Income Tax office or is willing to give oral information within the four walls of the Income Tax Department. That will be produced in the form of notes taken of what is required so as to substantiate the information, but if the law says it must only be given on a statement in writing on the requisition of the administration, I think, it is more than is necessary. I may point the hon. Member to the fact that any Income Tax Inspector having got some information orally will take a note of it and in due course put it among his records for subsequent use if necessary. To insist on a formal statement in writing on every question seems to be tying it it up unnecessarily, far more than is called for by a section of this sort.

Mr. FERNANDES: The hon. the Financial Secretary and Treasurer has strengthened my point. There is nothing in the present Ordinance which stops a man from giving the Commissioners orally any information they want, and you do not want to have a law to do that. He can do that voluntarily. I am thinking of the case where a person objects to give a statement orally. The law as it stands is, if you are asked a question orally and you refuse to give the information you are liable to a penalty of $1,000. That is what I am trying to avoid. If a person is willing to give facts and information orally that is perfectly all right. The amendment stops the Commissioners from having the right to demand the information orally. They should only demand it under a penalty clause if done in writing, and when they demand such information in writing the reply has got to be given in writing. If the Commis ioner asks for the information, whether in writing or orally, and the person is willing to give that information orally there is nothing wrong in that. He can do so now. You do not need an amendment to be able to do that.

The hon. the Financial Secretary and Treasurer went on further to say that when a person is giving information orally in the Income Tax office, within its four walls where everything said is treated confidentially, notes are usually taken. All the Commissioner has to do, when the person is finished stating the information he has to give, is to read the notes taken to him and

get him to sign them. If the statement is correct, that is, the facts given to the Income Tax Commissioner reduced to writing, it makes my amendment simple as all the person has to do is to read the statement and sign it. The point is the penalty attached for refusal.

Mr. SMELLIE: I am not so much concerned with the penalty under the clause, but with the situation I see, may possibly arise. That is, the Income Tax Commissioner has reason to suspect that a certain individual has not rendered correct returns and telephones some industrial concern asking to speak to the Accountant. I do not think that is a fit and proper approach. I agree with the hon. Member that there should be notice in writing given. I do not think these things should be orally got by telephone. No doubt the result would be very salutary if the individual was evading Income Tax, but I do not think it is the right way to go about it.

The ATTORNEY-GENERAL: I think hon. Members will agree on reading the section that, even though you may prescribe in the clause that it is to be given in writing, there are often occasions arising when even though given in writing the information may require some clarification. Let us assume that the hon. Member's point has merit in it. Having given his information in writing and that information requires further clarification, the Income Tax Commissioner may require the particular person to appear before him and he may even question him orally. I think that the provision of the alternative allows a certain amount of opportunity for explanation so as to dissolve any difficulties in matters which require further clarification. I think, sir, it is not to be assumed that steps will be taken by the Income Tax Commissioners against the person who says "I am going to give you the answer in writing" when the Commissioner says "I want it orally". You have two alternatives. The matter may not be of such importance but it may be necessary and desirable from the Income Tax investigation point of view and may not be required in writing. On another occasion in matters of major importance it may be desirable to have it in writing so that in future examination and investigation it can be seen what has been recorded by the taxpayer.

So I think that the language used is insufficiently satisfactory and elastic enough—not for the purpose of bringing people within the pale of prosecution or liability to a fine of $1,000, but to assist the machinery of investigation in order to get at the truth of the whole matter. There must be a certain amount of latitude permitted to the Income Tax Commissioner, on the assumption that in investigating a matter he would take the best course. I think the hon. Member is thinking of the $1,000 penalty, but I would suggest that he should not think so much of that, because it would only be invoked in extreme cases. It is merely providing machinery to assist in the investigation of matters of this nature so that the truth regarding a person's income may be arrived at.

The FINANCIAL SECRETARY & TREASURER: I am sorry that the hon. Nominated Member, Mr. Smellie, is not here. I understood him to talk about information being required over the telephone. That, of course, cannot possibly happen. Both sub-clauses (1) and (2) speak of the Commissioner requiring someone to do so and so. That obviously involves a formal demand—a formal written request to an individual to attend to give oral information, or to put it in writing. That demand cannot be made over the telephone. The telephone would not come into the matter at all.

Mr. FERNANDES: I am not at all happy about this. If the hon. the Financial Secretary again says that the telephone would not be used, and that the request would be made in writing, then, of course, my point is answered.

If the request is to be made in writing let us say so in the law. I would not like it to be said five years hence, when somebody who may think differently is administering this law, that as a Member of this Council I allowed something to slip through. As I read it, the clause says that a person would not be allowed to give information in writing if he is required to do so orally. The clause states " give orally or in writing, as may be required." If the Commissioner insists that it must be given orally it must be given orally. Whether the penalty is $1,000 or a million dollars does not bother me, because if a person is required by law to do something he should do it.

I agree with the clause entirely as regards the giving of information. I would agree to it even if we were the first Legislature in the Empire to introduce it. Somebody has to create a precedent, and I would not mind creating this precedent, but I want to be sure that there will be no misunderstanding whatever as to what should be done under this clause. I have written my amendment and I will move it. It is

> "Every person who may be so required by the Commissioner in writing shall give all such information as may be demanded."

The ATTORNEY - GENERAL: There is an amendment to come in at that point which is already proposed.

Mr. FERNANDES: I have seen that, but what I would be prepared to accept is that the question of whether the information shall be given orally or in writing should be left open. If a man chooses to give it in writing, he should not be forced to give it orally. If he must give the Commissioner information within a certain time he should be able to give it either orally or in writing.

The FINANCIAL SECRETARY & TREASURER: I said yesterday that we were unique in one way. Perhaps we would like to be unique in another. I have before me extracts from the Canadian and Australian Acts in which those words appear. In the Canadian Act a person is required

> "to answer all proper questions relating to the audit or examination either orally or, he (the Minister) so requires, in writing."

The Australian Act says:

> "to attend and give evidence before him, or before any officer authorised by him...."

Later it says:

> "The Commissioner may require the information or evidence to be given on oath and either verbally or in writing."

I cannot see why these difficulties should arise in British Guiana.

Mr. FERNANDES: I am glad the hon. the Financial Secretary has read from the Canadian Act, because it is exactly what I mean. This Bill does not give an individual an option. In the Canadian Act a person may answer either orally or in writing. In this Bill the Commissioner has the option, because it says that a person shall give information either orally or in writing "as may be required."

The FINANCIAL SECRETARY & TREASURER: That is not so. The Canadian Act says that the Minister may require a person to answer all proper questions relating to the audit or examination, either orally or, if the Minister or his agent so requires, in writing.

The ATTORNEY-GENERAL: I may add to what the hon. the Financial Secretary has said. I have before me the Mauritius Income Tax Ordinance of 1950 which says that a person shall

> "give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner."

I think this Council would be in very good company with Canada, Australia and Mauritius.

Mr. LUCKHOO: I appreciate the fears of the hon. Member for George-

town Central (Mr. Fernandes) but I am afraid I do not share them. As far as I can see it is merely machinery to facilitate investigation, and as such I can well envisage cases, for example, in which individuals in the country areas are taxable but are not able to read or write. Such persons may be asked to attend and give their evidence verbally if they wish to do so. It may be a small point which needs clarification. Are such people to be restricted to having to answer questions in writing?

Mr. FERNANDES: The hon. Member has misunderstood me. I wish the option to be given to the person giving the information.

Mr. LUCKHOO: The point is that surely the Commissioner of Income Tax should be allowed to exercise a certain amount of discretion, and one should not presuppose that on mere verbal statements he would attempt to bring a prosecution against an individual concerned. Surely he would be an officer of ufficient discretion and good sense to know that if he wants to found a prosecution he should do so on more tangible evidence. I take it that this is just a question of formal machinery to facilitate investigation and rope in those who would try to avoid payment of income tax, which is something we are all after.

Mr. WIGHT: Like the hon. Member who has just taken his seat, I agree that it is within a person's province to elect to give the information in writing. The only danger I can see is that our soap box orators may give the Commissioner of Income Tax oral information and he may find himself involved in an election petition and called upon to say whether Mr. "So and So" told him certain things, and he may plead privilege.

Dr. NICHOLSON: I cannot see anything wrong about this clause. Sometimes it is rather advantageous to a person to be called to the Income Tax Department to make an explanation. On three different occasions I was called to clarify something, and I found it much easier to go there and explain matters than if I had to put it in writing.

Mr. FERNANDES: If hon. Members feel that way I will not move an amendment. What I have said will be recorded in Hansard and I hope Members will not be sorry for passing the clause as it stands.

The ATTORNEY-GENERAL: A point has been raised with respect to section 36 (1) of the Principal Ordinance which provides that:

> "The Commissioner may require any officer in the employment of the Government or any Municipality or other public body to supply any particulars required for the purposes of this Ordinance and which may be in the possession of the officer, but the officer shall not be obliged by virtue of this section to disclose any particulars as to which he is under any statutory obligation to observe secrecy."

To avoid any possibility of difficulty or misconception arising, that an officer of the Savings Bank should be prevented from giving information by virtue of that section, it becomes necessary for this clause to provide against that.

The FINANCIAL SECRETARY & TREASURER: That is so. The Chamber of Commerce did submit a memorandum drawing attention to the fact that the Post Office Savings Bank is in a very privileged position as compared with the commercial Banks. Therefore an amendment of the section was necessary.

Mr. PETERS: There is some question in my mind as to the universal import of the words "any person" in sub-clause (2) of clause 17. Suppose a person is not in a position to give the information required, and fails to give it, it means that he would be liable to be prosecuted. I think "any person"

is just a little too universal. The person must be connected with the person with respect to whom he is required to furnish information.

The ATTORNEY-GENERAL: I think the hon. Member does not fully appreciate that it relates to any person who comes within the ambit of a possible investigation by the Commissioner of Income Tax for purposes of inquiry. The Commissioner is now being empowered to ask any person to give information, but that person must have information or relevant information. If he has not relevant information he cannot be penalized for not having information. It must be a person who has information available, and I hardly think that the Income Tax Department—a very busy Department—would worry someone to give information when there is none available.

Mr. PETERS: Why can't we say "any person who is in a position to furnish information"?

The ATTORNEY-GENERAL: Where reason ceases the law itself ceases.

Mr. PETERS: That is what is going to happen here.

The ATTORNEY-GENERAL: The Commissioner of Income Tax is being provided with certain powers under this clause for the purpose of getting at the root of taxable income. If there is any person who, in the opinion of the Income Tax Department, has information available, then the Commissioner will seek the information from that person. The law seeks to give the Commissioner the right to ask the hon. Member or myself, or anybody, what information he has so far as the particular inquiry is concerned.

Mr. PETERS: If you have no knowledge and you fail to give information you are still liable to prosecution.

The ATTORNEY-GENERAL: The hon. Member is a practising barrister.

Mr. PETERS: That is why I am saying that this should be clarified.

The ATTORNEY-GENERAL: In other words, it is suggested that a person who is completely and abysmally ignorant of the transaction should be penalized because of his ignorance. That is impossible.

Mr. PETERS: In the light of the text of this clause—

The ATTORNEY-GENERAL: It is not a text. It is not a sermon or anything—

Mr. PETERS: It is more than a sermon.

Mr. WIGHT: I would suggest to the hon. Member that the Interpretation Ordinance covers his point about the word "person" and what it means. I am sure that if we gave a little discretion to the Income Tax Commissioner he would not unnecessarily act under the law, and one might conclude that no Judge or Magistrate would convict a person who was called upon under this clause to give information, if he said "I have no knowledge whatever." In other words there would be no *mens rea*. A person must have some knowledge to divulge. The information must be either within a person's knowledge or within his grasp. He must be a person in a position to give certain information. I feel sure that the hon. Member will appreciate that if a witness says "I do not know," that would be the end of it. I really cannot see that if a person is unable to divulge information which he does not possess, he would be guilty of an offence under this clause.

Clause 17, as amended, put and agreed to.

Clause 28.—*Commencement.*

Mr. FERNANDES: I would like to get an assurance with regard to this clause. I do not think it would be fair to invoke the penalty clause for failure to file returns before the 1st May with regard to the 1951 assessment, because it would not be correct to legislate for something that has already happened.

The FINANCIAL SECRETARY & TREASURER: The hon. Member is referring to the clause which imposes a penalty of 5 per cent. of the tax assessed in cases where a person has failed to submit a return within the time fixed by notice. I think it was explained that that particular power has no reference whatever to the prescribed date, which happens to be the 30th April. It merely refers to the notice which the Commissioner is permitted to give in cases where he demands a return when one has not been filed. These notices are only issued later in the year when the Commissioner has gone through his books and issues a specific notice to an individual, fixing a time within which he must submit a return. It is in such cases, where the individual fails to comply with the notice, that the penalty of 5 per cent. applies. It has no connection whatever with what is called "the prescribed date for submitting returns," which is fixed by Regulation.

Mr. FERNANDES: I take it for granted that the notices issued by the Income Tax Commissioners in the newspapers were not notices.

The FINANCIAL SECRETARY & TREASURER: They were reminders of the date. What is referred to in this clause is a specific notice addressed to an individual fixing a specific time to send in his return.

Mr. FERNANDES: I accept that. I did not question that.

Clause 16—Recommitted.

The ATTORNEY-GENERAL: I shall ask leave of the Committee to recommit clause 16 in order to make a necessary amendment in regard to section 36, as that clause deals with amendment to section 36. My suggested amendment is:

> Section 36 of the principal Ordinance is hereby amended—
>
> (a) by the deletion from subsection (1) of the comma and words, "but the officer shall not be obliged by virtue of this section to disclose any particulars as to which he is under any statutory obligation to observe secrecy";

That removes any conflict between the powers given to the Income Tax Commissioners under section 36A and any provisions whereby an official will not be obliged by virtue of a statutory obligation to observe secrecy to disclose required information. The officers of the Post Office Savings Bank are required to observe a statutory obligation of secrecy.

> "(b) by the substitution for the words "or bonus" in subsection (3) of the words "bonus or allowance".

In other words, the provision of clause 16 which has been agreed to and passed is now being made paragraph (b) of the section, and paragraph (a) refers to section 36 (1) which is now being sought to be amended.

Dr. JAGAN: I really do not see the necessity for this amendment. If an individual is sworn to secrecy and that individual, a public officer, is called upon to give certain information by the Income Tax Commissioners, which information is also held secret, I do not see the necessary connection because the information would still be secret. The hon. the Attorney-General mentioned the case of the Post Office Savings Bank's Officers. It may be necessary for the purpose of assessing

correctly a man's income to go into his Savings Bank deposits. I do not see any reason why the Head of the Savings Bank should not be called upon by the Income Tax Commissioners to give evidence of that man's savings, which information will be secret in any case. I do not see the necessity for that amendment. In that case, only a few officers will be involved.

The CHAIRMAN: An officer is not at present at liberty to disclose anything, merely because he is disclosing it to another officer. That is the point.

The ATTORNEY GENERAL: This is to make it quite clear that the provisions to which hon. Members have agreed for the purpose of investigation by the Income Tax Commissioners embrace also an officer such as we have referred to, who may have a statutory obligation to observe secrecy. I think, hon. Members would agree that there should not be any argument as to the fact that it should apply to such officers as to a commercial undertaking. We have only added that part dealing with the amendment to section 36 (1).

Clause 16 recommitted and amendment put, and agreed to.

Clause 1—*Short title.*

The ATTORNEY - GENERAL: There has been an Amendment Bill passed already and, therefore, this Bill should be "Income Tax (Amendment) (No. 2) Bill." I move the insertion of "(No. 2)" after the word "Amendment" in the clause.

Question put, and agreed to.

Council resumed.

The ATTORNEY-GENERAL: With the consent of Council I beg to move that this Bill be now read a third time and passed.

The COLONIAL SECRETARY seconded.

Question put, and agreed to.

Bill read a third time and passed.

SUGAR INDUSTRY LABOUR WELFARE FUND (SPECIAL PROVISIONS) (HOUSING OF LABOUR WORKERS) BILL.

The PRESIDENT: Hon. Members, the next item on the Order of the Day is the second reading of a Bill intituled—

> "An Ordinance to make special provisions for the housing of labour workers on sugar estates."

This is a measure of very great urgency. I have received representation from the hon. Member for Eastern Demerara, who is in hospital, that this Bill be not taken today but on another occasion, so as to enable him to be present. I am very reluctant to agree to his request. I do not wish the impression to be given that we do not wish the special committee to issue loans to sugar workers to enable them to get on with the building of their houses. The measure has been delayed some time and Government has been criticized for the delay in the newspapers and elsewhere. There has been a question in the House of Commons as to what we are doing with this matter. I intend to leave it to the decision of the Council as to whether we proceed with it this afternoon or not.

Mr. MORRISH: I think I am correct in saying that there are about 2,000 applications made already, and the people concerned are becoming very impatient and are really beginning to wonder whether there is any intention to implement this question of our housing the sugar estate labourers.

Dr. JAGAN: I, too, realize the urgency of this matter, but in view of

the fact that the hon. Member has made representations to you, sir, that consideration be postponed, I feel that if we wait until next week and take this matter the very first day of our meeting that would meet him. I do not think that would be too late.

Mr. WIGHT: I must object in principle, while I am sorry the hon. Member is ill and unable to take his place in this Council. We must remember this, that if each one of us was unable to attend the number of days we were here and had kept on asking that matters be postponed because we were not able to attend, we would be in the position of not only contravening the Rules by obstructing the business of the Council but we would be in an impossible position to get on with the work. The hon. Member, himself, said it is a very important matter but he is unable to attend. We are sorry he is ill, but at the same time if we fix it for next week the hon. Member for Central Demerara may get ill and say then he is sorry but we cannot go ahead until Thursday, when the hon. the Seventh Nominated Member or the hon. the Sixth Nominated Member may say he is ill and we should not proceed without him. We will never get on with the business of the Council unless we stick, and very strictly, to the Rules, otherwise we will get into an impossible position.

There has been developed not only here but in the other councils—the Georgetown Town Council, unfortunately supported by a legal decision which goes on the records of this Colony in the Law Reports—that a member for some reason or other need not be present in his seat to hold up a matter. If a matter is of such great urgency, surely other hon. Members can discuss it and the hon. Member, I would even suggest, if he desires to add his contribution when he is fit, hale and hearty, can come and we may continue the discussion so that he can treat us to the particular pearls of wisdom which will necessarily fall from his lips. That is how I feel. You must not think of the individual.

I have already moved in another place condolence in respect of the hon. Member's indisposition. I am speaking entirely on the statutory Rules of this Council. If this Council gives way in such things I can visualize we shall at some other time find ourselves in a chaotic state, as was found in the House of Commons some years ago when discussing the Irish Home Rule Bill. There is the possibility of obstructive tactics being employed. I do not say, however, it is in this case. I am only saying what would happen if we do not follow our Rules. All an hon. Member may say is "I desire to add my contribution", but he cannot hold up the debate because he is not present. If that is so, he can always, if one hon. Member happens to have the sympathy or feelings of the Council, hold up important business. He can hold up the Budget for instance.

Mr. ROTH: I move that we proceed with the Bill now.

Dr. NICHOLSON: The matter is not one of such extreme urgency that it cannot be delayed for four or five days if the hon. Member has expressed his desire to speak on the Bill. He would not be here to hear the pros and cons of the matter put forward by Members if it is taken today. If it is postponed until next week he might be present. We have abundant precedent for it in this Council, where matters have been put down until a very interested Member representing a particular constituency could be present. I can see no reason why the matter cannot be postponed until next week.

Dr. SINGH: I am in sympathy with the request, especially as it came from the British Guiana East Indian Association, but being a member of the

Sugar Welfare Fund Committee I know what the position is. The labourers are getting anxious; they are losing confidence in us, and we really need some authority so that we can negotiate their loans. It must be remembered that the notices about the loans and leases etc. appeared since last September. The people are very anxious and, I feel, if this Bill can be gone into early it would greatly assist us. We know all the objects of the Bill, how the money was raised through the Export Tax, or whatever you may call it, on every ton of sugar exported. The Fund last December stood at over $1½ million and, as the hon. Nominated Member (Mr. Morrish) said, there are about 2,000 applicants all very anxious over he delay. We have done everything possible to make the Bill one which would suit everybody. It is true that some hon. Members feel that instead of leases the lands should be sold to these sugar workers, but it is just like our Land Settlement Scheme at Vergenoegen, there is to be a big debate about it.

The PRESIDENT: The hon. Member can speak on the Bill later on.

Mr. FERNANDES: I am in sympathy with postponing consideration of the Bill so as to give the hon. Member for Eastern Demerara (Mr. Debidin) a chance to come out and have his say on it. But we have no assurance that he will be here next Wednesday or the following day, so we may delay this matter until next Wednesday and still find that we have to debate it without the hon. Member. Unless I have some definite statement that the hon. Member will be out next Wednesday, I am afraid I will have to vote against the delay.

Mr. LUCKHOO: One hon. Member said there is no urgency in this matter. I want to corr t that. There is more than urgency. There i extreme ur ency. I d know that within the last two or three months the Unions have been sorely pressed to find excuses why this matter has not been gone into. I regret very much the hon. Member for Eastern Demerara is not here. It would be most interesting to get his contribution to the debate, but I can well see the position. I would like to say something on the debate myself. Next week I might be engaged out of Georgetown and would not like to make that same request as the hon. Member is making now. I do feel this matter should be proceeded with.

The COLONIAL SECRETARY: Someone can move that we do that!

The PRESIDENT: I personally do regard it as a matter of urgency. The hon. Member who is unfortunately ill will be able to see from the remarks made in the Council our sympathy is with him, but we are very anxious that the Bill should not be delayed.

Dr. JAGAN: I, therefore, beg formally to move that this Council does not proceed with the consideration of this Bill today.

Mr. ROTH: I have already moved that the Bill be proceeded with.

Dr. JAGAN: The hon. Member's motion is out of order as the Bill is already on the Order Paper and, therefore, my motion stands.

The PRESIDENT: As the hon. Member's motion is not seconded we will proceed with the item on the Order Paper.

The ATTORNEY-GENERAL: I beg to move the second reading of a Bill intituled—

> "An Ordinance to make special provisions for the housing of labour workers on sugar estates."

This Bill was published on the 21st April and, as some hon. Members have already stated, it is a matter of extreme urgency as many of the sugar estate

workers, those who will benefit by the provision of this Bill, are pressing that this legislation should be enacted without delay so that the Sugar Industry Labour Welfare Fund Committee can make available to them the loans. We have heard there have been over 2,000 applications already submitted. It is proposed, as hon. Members will see from the Objects and Reasons, by the Sugar Industry Labour Welfare Fund Committee to make loans to labour workers for the purpose of enabling such workers to erect and own their own houses on approved sites. Long lease of each house lot with renewable at the will of the lessee will be granted to such labour workers by the estate authorities.

Clause 2 of the Bill provides what the term "labour worker" means. That definition was taken from the Regulations made under the Sugar Industry (Special Funds) Ordinance, but since the publication of the Bill I have had distributed to hon. Members an amended definition of "labour worker" which, I think, will be sufficiently all-embracing so as to give an opportunity to all these workers on sugar estates to benefit by the proposals under the Sugar Industry Labour Welfare Fund Scheme.

Clause 3 seeks to exempt such leases from the provisions of section 13 of the Deeds Registry Ordinance, Chapter 177, which requires a long lease, *i.e.*, a lease for a period of 21 years or more, to be passed and executed before the Supreme Court in the same manner as a transport in order to be good in law against a *bona fide* tran feree for value.

Clause 4 seek to provide that where a loan is made to a labour worker by the Committee the borrower shall sign a promissory note and a receipt which operate as an assignment of the borrower's interest in the house and land to the Committee as security for the repayment of the loan.

I think, hon. Members will appreciate this proposal and procedure because they seek to avoid the procedure which will increase expenditure and cost to the particular applicant for these loans. It will be appreciated that by these means the cost to them will be cut down to the absolute minimum, in pursuance of the desire of Members of this Council, the Government and the estate authorities that the labourers on the estates should get the benefit of the Sugar Industry Labour Welfare Fund as soon as possible and should be in a position to own their own homes and so get rid of what one may call the very undesirable housing conditions in many cases.

I think this legislation will commend itself to all hon. Members. It has been suggested that there has been delay in regard to such legislation, or in regard to the utilizing of the funds which have been collected from the inception of the Sugar Industry Labour Welfare Fund. So this is a very desirable and necessary step in order to assist labour workers. I beg to move that this Bill be now read a second time.

The COLONIAL SECRETARY seconded.

Dr. JAGAN: Some hon. Members have received petitions from the B. G. East Indian Association on this matter, and so have I. Relative to this same matter, as long ago as 27th May, 1949, I tabled a motion in this Council asking Government or this Council to recommend that Government make certain provi ions for the housing of sugar estate workers. With your permission I would like to read the resolve clause of that motion which I introduced in this Council on the 27th May, 1949:

> "Be it resolved that Government acquire from the sugar estates all front lands and make available grants and loans to all sugar estate workers for the erection of houses thereon;
>
> "And be it fu·ther resolved that each housing area in each sugar estate be declared a local authority under the jurisdiction of the Local Government Board."

The whole object of this Bill is, apparently, to permit the lease of a piece

of land for a period of 21 years to be exempt from the provisions of Chapter 177, so that the normal process will not have to be gone through. But tied up with this matter is the question of the security of those persons who will be building their houses, partly with their own savings and partly with funds obtained from the Sugar Industry Labour Welfare Fund. We have only recently in this Council voted a sum of $1½ million for the purchase of certain lands to be placed at the disposal of individuals for the purpose of building their own houses. One of those pieces of land is Campbellville, on which people have built their houses, and the reason why Government decided to purchase that area was because of the insecurity of tenure of the tenants there who, most Members of this Council felt, should be afforded an opportunity to own their own homes.

It may be assumed that if an individual is granted a lease for 21 years he would be quite secure, but I would like to point out certain matters with regard to this lease so that Members may be apprised of all the facts. At the present time some of these sugar estate lands are being rented on the basis of a monthly tenancy to persons who are either whole-time or part-time workers on sugar estates. That security of tenure, which most Members of this Council advocate, is not really guaranteed at the present time, and I do not think it would be guaranteed even by a 21-year lease, in view of the terms and conditions under which these leases will be granted. I have in my hand a copy of a letter dated May 22, 1950, which I sent to the Colonial Secretary, giving the text of notices sent to tenants who have built their own houses on lands owned by the Ogle Co., Ltd. With your permission, sir, I will read the relevant sections:—

"Notices to quit received by Kublall and Ramkissoon of Pln. Industry, south of the railway line:—

"Take notice, that we, the Ogle Company, Ltd., hereby require you to quit and deliver up to us or to whom we may appoint on 1st day of June, 1950, or on the expiration of a month of the tenancy next after one month from the date hereof possession of the premises situated at Lot 2 Facing South of R. Line, as per plan, in the County of Demerara and Colony of British Guiana which you hold of us as a monthly tenant.

Dated this 30th day of April, 1950.

N.B. After your tenancy has expired pursuant to the above notice, the estate intends to let the above mentioned premises at $1.00 per month and is prepared to consider granting you a new tenancy on this basis."

Dhoon alias Naphadeen & Angie, Pln. Ogle Pasture, E.C. Dem.

"This will serve as a warning to you that your conduct is. and for some time past has been, unsatisfactory, and unless there is an immediate and sustained improvement you will be evicted from Pln. Ogle, in the County of Demerara and Colony of British Guiana.

The conduct in respect of which this warning is given is that:—

1. You are refusing or refraining from giving your labour to the estate, and

2. Your general behaviour is calculated to disturb the other residents on the estate and to lead to a breach of the peace."

Let us assume that, instead of a monthly tenancy, a 21-year lease was granted under certain conditions. If those conditions were similar to those I have just read it would be seen that such a lease would really mean nothing, and that a tenant could be thrown out at any time. "Your general behaviour is calculated to disturb the other residents on the estate and to lead to a breach of the peace." That could mean anything. An individual who takes part in trade union activities could be kicked out because it might be felt by the estate authorities that he was disturbing the peace of the estate. It should not be implied that, because a person builds a house on a piece of estate land, he should necessarily have to give his labour to the estate.

In this Bill provision is also made to cover cane-farmers. There are some cane-farmers who give their labour to the sugar estates, but there are others who do not work on the estates at all. I feel that if individuals desire to build their own houses on sugar estate lands proper security of tenure should be given to them whether they work on the estates or not. I have before me also a draft copy of an agreement which was given to residents at Ogle by the management of the estate, to be entered into in the event of their desiring to lease house lots under the 21-year lease. Let us examine the conditions under which these leases are to be given. With your permission again, Sir, I will read from the draft agreement. It says:

> "The tenant covenants with the Company as follows:
>
> (e) Not to house any person warned off the lands of the estate or permit such person to enter upon, reside or remain on the house lot or house."

That clause certainly interferes with the liberty of the individual.

The ATTORNEY-GENERAL: I am sorry to interrupt the hon. Member, but I did not gather between whom the agreement is to be made.

Dr. JAGAN: This agreement is between the Company and a tenant. In other words it is an agreement which will be signed by the members of the sugar estates and tenants who will be taking up those lots.

Mr. LUCKHOO: To a point of correction! I think the hon. Member is reading from an agreement of lease between the estate and private individuals, but properly drawn up leases have been agreed upon. Evidently the hon. Member has not seen a copy of those leases in which there is no such clause at all. The draft leases which have been agreed upon have been drawn up by legal representatives of the Union, the Sugar Producers' Association, and the Government, and I am sorry the hon. Member has not seen a copy of them. What he is reading from is not relevant to this particular issue.

Dr. JAGAN: I am sorry I did not get a copy of that agreement of lease to be signed between the tenants and the Companies which will be giving out these lots. I can only act on the information I have, and my point in bringing this information to the notice of the Council was to show that under those conditions the tenants would not be secure, and that they would be better off if Government acquired the lands and let them have house lots on a rental-purchase basis over a long period of years. I would have liked those hon. Members who know so much about this matter to have spoken, so that those Members who are not members of the Committee would have been properly informed.

The PRESIDENT: I am quite sure that hon. Members who are members of the Sugar Welfare Committee do intend to speak on the measure, but because the hon. Member preceded them they have not yet been able to do so. I am certainly looking forward to the explanations which they will be able to give with regard to these lands. I have myself read the draft of the lease which, to my mind, appears quite acceptable. The copy of the lease from which the hon. Member has read has nothing to do with the lease which it is proposed to make.

Dr. JAGAN: The reason why I got up to speak is because I found that no other hon. Member was willing to do so, but if hon. Members wish to speak I would take my seat and conclude my remarks after they have spoken.

Dr. SINGH: The draft lease went backward and forward several times before we reached finality. That is the final draft. We went into every phase of the matter, and I think the hon. Member need not worry.

Dr. JAGAN: I shall not deal any more with that because, from the information at my disposal, I am

satisfied that it would not be in the interest of the sugar estate workers to borrow money from the Sugar Industry Labour Welfare Fund, or any other source to build houses on land in respect of which they may not have tangible security. I feel that Government would do the people of this country, and the sugar estate workers particularly, a great service if it embarked on a project of purchasing these front lands for the purpose of selling lots to the sugar estate workers and cane- farmers who could then apply for the necessary loans from the Sugar Industry Labour Welfare Fund. In developing my argument along these lines I should like to read from the Papers relating to Development Planning No. 1. at page 318. with reference to Rural Housing. It is a report submitted on behalf of the sugar producers by Dr. Giglioli, in which he states:

> "The Rural Housing and Land Settlement Sub-committee of the Ten-year Plan Development Committee in its report issued on the 13th January, 1947, after dealing with the proposed housing schemes for Leguan, Wakenaam and the Essequibo Coast, recommends that similar Government-financed resettlement schemes should be carried out on three sample sugar estates: Wales, Versailles and Port Mourant. This plan would involve the transfer from the estates to Government of 266 acres of drained land, valued at $73,100, at the nominal cost of $1.00 per acre, i.e. a total of $266. The estates' contribution to these schemes would therefore be at $72,834. The Government on its part should provide $82,695 from Colony funds for the preparation of housing sites and the provision of water supply. In the aggregate 1,596 houses will be required at an estimated cost of $866,666. Of this sum it is suggested that $520,000 should be by way of loan, recoverable over 20 years, and $346,666 by way of grant over a period of 3 years. The Sub-Committee points out that this scheme is complementary to that of the estates in relation to the nucleus population, and that to be most effective it should precede the latter. Execution of the scheme on these three plantations should illustrate the desirability of its extension to other estates where practicable."

That is a matter which was gone into very fully by the Sub-Committee on housing, and it was felt then that, apart from the nuclear housing which would be undertaken by the sugar estate authorities for their regular workers, a scheme should be embarked upon whereby the sugar producers would give lands to Government at a nominal sum. Those lands would then be prepared by Government at the cost estimated in this report, and grants or loans would be given to the workers to enable them to build their houses. Unfortunately, that scheme seems to have been abandoned—I do not know for what reason—and instead we now have the ugar estates' scheme for housing extra nuclear workers. They are now preparing the house lots, but I am not satisfied that it would be in the best interests of the people to build their houses on lands leased by the sugar estates. I think that, following on this report, Government should purchase outright the lands on which the worker are to build their houses, and give them out to the people on a rental-purchase system.

Today, Government is leasing to the Sugar proprietors nearly 90,000 acres of land and receiving a sum in the vicinity of $4,000 annually. It is indeed an indirect subsidy to the sugar producers of this Colony. I therefore feel that the sugar producers should likewise be generou to the people of this Colony, by giving their front lands in lieu of the facilities now provided by Government in respect of the back lands.

Capt. COGHLAN: To a point of explanation. The 90,000 acres of land referred to by the hon. Member are held by the sugar estates under licence of occupancy, and Government cannot dispose of those lands at will. The licence of occupancy relates to the second, third and extra depths, while the first depth is freehold. The second, third and extra depths are also attached to the freehold, and cannot

be disposed of by Government at will. I tested that matter out with Government some years ago, and Government had to give me freehold title for the second and extra depths.

Dr. JAGAN: That point has been made more than a dozen times in this Council. The hon. Member should have awaited his opportunity to speak. Whether it is licence of occupancy or not, my point is that the lands have been placed at the disposal of the sugar producers at a comparatively small figure. Those lands are very valuable to the sugar industry in the sense that they are lands which are producing sugar. On the other hand, there are front lands, not suitable for cane cultivation, on which houses are built. That is the reason why many front land areas have been abandoned and divided into house lots. It may, therefore, be said that so far as the sugar producers are concerned the back lands are more valuable than the front lands, and if Government has placed the back lands at the disposal of the sugar proprietors at a nominal figure, I feel that similar consideration should be given by the sugar producers to the workers and the Government of the Colony. Apparently, at one time the estate authorities were prepared to carry out the scheme, but I do not know what has happened. Until I am fully satisfied about the lease, which I have not seen—in fact, even if it is satisfactory I would still urge upon Government that it should acquire these lands and re-sell them in lots to the cane-farmers and sugar workers on an easy payment basis over a long period of time.

It seems that the estate proprietors are quite prepared to sell these lands at a nominal figure. We must consider that the estates are going to charge a normal rental to the workers who build houses on their lands—one shilling per month I am told. If we assume that there will be eight house lots per acre it would mean 8/- per month as rental. I know that the sugar estate authorities will have to incur considerable expense in preparing the lots, and it can therefore be said that the rental to be charged is justifiable. That is why I feel that the sugar estate authorities would be prepared to hand over these lands to Government at a nominal price, seeing that the income that would be derived would be really nominal. That is the view I hold, and the view held by the East Indian Association. I am not fully apprised of the conditions of the lease, and therefore cannot present any further argument at this moment. I think it is not too late for Government to intervene and enter into negotiations with the sugar producers with a view to acquiring these lands for distribution in house lots to cane-farmers and sugar workers.

Mr. LUCKHOO: I would like to preface my remarks by saying that I am not a member of the Committee which went into this matter and made recommendations. The position is that years ago everyone became conscious, as one is conscious now, that the housing conditions on sugar estates were deplorable, and as a result of that, from the 1st January, 1947, exporters of sugar were required to contribute $13.20 on every pound of sugar manufactured in and exported from this Colony. Of that sum, $6 was allocated to a Sugar Industry Price Stabilisation Fund; $4.80 towards a Sugar Industry Rehabilitation Fund; and $2.40 towards a Sugar Industry Labour Welfare Fund. I am grateful to the hon. Member for the information that at the end of December the Labour Welfare Fund showed a total of $1½ million.

A scheme was embarked upon for the purpose of removing the workers on sugar estates from their pig-sty conditions and providing them with

better quarters. The scheme was prepared by a Committee comprising representatives of the Sugar Producers' Association, members of the trades unions representing the sugar workers, and Government nominees. It is proposed that each house lot should occupy one-tenth of an acre, but that there should be 8 and not 10 houses on one acre, because space would be needed for the building of roads and for the purpose of drainage. These house lots are already there and a worker now applies to the Committee for a loan of $500. He may take less if he so desires. He repays at the rate of $1 a week, and if it is repaid in 10 years he gets a rebate of $40, and if it is repaid in 12 years he gets a rebate of $25, and if he is fortunate to repay it in 5 years he gets a rebate of $60.

This is where the Committee will be advancing sums of $500 to those workers who desire to build their own houses. But it goes further than that. It is not only a question of a worker who desires to go on estate land and build his house. He can go to the Committee and say "I want to build my house in the village," if he is in the position whereby he has his own land in the village. He is not restricted to go on the estate land which is mapped out for the purpose. He will be allowed the privilege to get the money and build his house in the village. If he has a small house in the village he will be given the opportunity to enlarge it. As long as he is a sugar worker and comes within the meaning set out in this legislation he will be in a position to obtain this loan from the Committee. It may be urged that $500 is not much money and the worker should be allowed more money. That is one of the points the Union has been stressing, but back comes the reply, if you make it more than $500 you would be in reality limiting the amount of good you can do to a small number, and the time has come when we should attempt to do benefit to the majority of workers.

I repeat again, I am not on the Committee, but from my enquiries and from the Union it does appear that the first person who will benefit from it will be those who live in the logies or ranges. They will be given the first consideration and, to my mind, a very reasonable working scheme has been evolved. A person living in a range now has a room. He can buy that room or the rooms occupied by his family for the sum of $5, a normal sum, which has been fixed by the estate. It may be urged that in a good many cases the room is not worth $5. That may be so, but in many cases they are worth $10, and that also includes galvanised sheets and other materials he has there. He can purchase them for the normal sum of $5 and utilize them for the purpose of building the house which he hopes to erect. What does the estate get from that? From their point of view they will only get one shilling per month or $2.88 per annum, and this lease which will be entered upon is for 21 years with the right of renewal for another 21 years.

The PRESIDENT: I should like to announce to Members that at the meeting of the Committee held yesterday it was agreed that the period should be extended to 25 years with the right of renewal for another 25 years.

Mr. LUCKHOO: I am grateful to Your Excellency. I am rather happy to hear that the period of 21 years is yet further extended to 25 years, as Your Excellency has pointed out, with the right of renewal for another 25 years. It is no use saying that we want to help the workers and at the same time introduce a system which is not practicable. That in itself, to my mind, savours of frustration. Rather, sir, it is much better to have a system which can work and which will be for the ultimate good of the worker. Let me explain what I

am getting at. If you were to give the worker the privilege of buying some land, you are first of all calling upon his limited resources. Even if he is to pay for it over a long t rm, the call upon his income would be greater than what he is experiencing now. Further, he will have to be responsible for the drainage of his land, and he will have to be responsible for the making of roadways in his compound.

What is the position? Under this lease which ha been accepted by all the parties it is the lessor, the sugar proprietors, who will have to prepare the roads and who will have to be responsible for the drainage, but certainly the internal drainage the worker will have to see is kept clean. The main system of drainage it is the duty of the estate to look after. One can see the argument without going into details. This is something which must of necessity benefit the workers. It is a liability not on them but rather on the employers. There are no restrictions such as the hon. Member was attempting to set up. But it goes further than that. There has been an open statement made by the employers concerned that they are doing all this with the idea that eventually these areas that they have mapped out for the purpose of housing should become villages and the land might eventually be acquired by an Authority and be run as a village itself, or maybe if the house lots are near to villages they might by a process of natural accretion become joined on to the particular villages concerned. That is no secret declaration. It is something they have openly said.

The Unions have been vigilant in their observation and eager to see this is not shortlived whereby there is no future for the worker . This, sir, after very careful enquiry, seems to be in the best interest of the workers. Instead of having the buildings coming up helter-skelter, instead of having a village created in chaotic confusion, the will hav the embryo of a village in form with properly laid out lands, properly constructed houses for the benefit of the worker and his family. As I say, the rental is a matter only of one shilling per month, and the worker has the right to repay the loan at $1 a week, and in addition to that if he pays it back before five years he would receive a rebate on a sliding scale up to 12 years. I repeat again that the workers are not bound to build their homes on the particular lands offered to them, but can go into the villages and do so if there are lands available there, or if they want to own their land.

The proof of the pudding is in the eating of it. This scheme is not something which is suddenly foisted on the workers. It has been already put into operation in other parts of the country. We have it being tried out along the front of Plns. Uitvulgt and Enmore and along East Canje, Berbice, where because of the Fund not being in a state whereby the money can be advanced, the sugar proprietors have advanced the money and houses have been built or are being built with that money and satisfactorily so to the workers, because for the first time the worker is coming out of his deplorable condition and is being permitted to have decent conditions under which he may live. If this is going to be deferred and put down for a sub-committee to report on it, we would be leaving it in that state of stagnation as it is presently. What better results can any association or other body desire than that which has been obtained here. Sir, if these workers were permitted to purchase the land under a long term repayment scheme, they would necessarily also have to find the money not only to pay for the land but to look after drainage and build roads.

This is not something at the mere discretion or caprice of the employers who can go there and say to a man "Get out of the house." He has the

right to remain there for 25 years and also the night to the renewal of his lease for a further 25 years with the avowed object that eventually the place should be created into some form of village constitution or be acquired by a neighbouring village. In this particular Ordinance there are many features which are most desirable and highly commendable, because a lease for 21 years and over, as the hon. the Attorney-General has pointed out, will have to be treated as a transport, and in that case the worker himself thereby made to pay some of the cost, perhaps one-half of the Stamp-Duty—one per cent. is the duty paid on long lease. But now he is being given a statutory right whereby he can treat this as a sort of statutory lease. However, if this Ordinance were not invoked any arrangement entered into between the worker and the employer could not be pleadable in a Court of Law except it was filed as a record. But here we have it that that will not be necessary any more, as it is an instrument which can be pleaded by virtue of this facilitating Ordinance.

It seems to me that with the large number of applications—I did not know the exact figure, something over 2,000—it does show the earnest desire on the part of these workers to avail themselves of the opportunity of building their houses and being able to enjoy happier surroundings than that which now obtain, and it seems to me that it would be an obstructionist policy if one were to essay to have this scrapped and to put forward a mere figmentary attraction in the form that you must give the people security. They have their security under this lease. It is to my mind misleading to say the people are not secure. They have a long lease for 25 years with a renewal for another 25 years. It is the Committee and not the employers who will be running this scheme. It is the Committee on which the people's representatives, the executives or selectees of the Unions will be. Government will also be taking an interest in it as it will have its representatives there, as well as the employers will be there. If the position is really studied it would be found, as those who have studied it and are genuinely in sympathy with the worker have voiced their approbation, that it is undoubtedly an exceilent scheme under the Sugar Industry Welfare Fund. I think, sir, it is inevitably a step forward, whereby the worker is offered this security. I use these words advisedly. To my mind it does savour of some intelligent planning on the part of Government, as from since 1947 it has been collecting these sums and today we have a tangible amount whereby an appreciable sum is available for those who need it most.

Mr. MORRISH: The hon. the Seventh Nominated Member (Mr. Luckhoo) has been so explicit that, I think, it leaves but little for me to say. Nevertheless there are one or two points which are important because I do feel, for example, that some doubt has been cast on the integrity of the Sugar Welfare Committee. It is almost suggested in a memorandum which I received—it may be so interpreted—that those gentlemen were not looking after the welfare of the sugar workers. Now, sir, today we are losing from this Colony, Mr. Laing. Mr. Laing was a member of this Sugar Welfare Committee, and for several weeks past the local Press has been unable to say enough good of Mr. Laing and the work he has done for the people of this Colony. I suggest, therefore, it is reasonable to suppose that Mr. Laing as a member of the Committee was equally interested in the welfare of the sugar worker and did, as I am sure and do honestly feel, put everything into it that he could on behalf of the workers. I think it is not necessary to explore that angle any further.

It has been also stated, the hon. Member for Central Demerara made the suggestion, that the lands should be given or taken, or sold to the work-

ers. It does not matter much which, but it must be given to their absolute possession at once. I think there are some very good reasons why we should learn to walk before we start to run. I have in my hand the Hansard of the 13th December, 1943. On that day—again I have to refer to Mr. Laing as he was then acting Colonial Secretary—there was a debate on Land Settlement. In the course of his speech Mr. Laing gave several reasons as to why it was inadvisable to make land settlement areas freehold. I think it may be interesting to quote those reasons:

"(a) It creates an independence which often results in an attitude of indifference to the 'good-of-the-land' or even in the abuse ot the land with serious effects on the community.

(b) It tends to encourage high speculation in land and sometimes rapid transfer of property from one owner to another without attaining a sound price structure.

(c) It provides the opportunity for, and often leads to, restricted mortgage which encumbers the land with indebtedness.

(d) It frequently results in excessive sub-division and fragmentation of land without regard to the economy of the unit.

(e) It permits of land ownership by persons who make no effort to develop their land for agricultural, residential or social purposes.

(f) It permits of the existence of too great a measure of inelasticity in respect of size of holding, regardless of the capacity of the owner to make the fullest use of it in the interest of the community."

Mr. Laing, I am sure, when he made those comments was thinking a long way ahead, by far greater than the majority of the persons whom it is now hoped to establish, as the hon. the seventh ominated Member (Mr. Luckhoo) has said, on their own land in villages or on these planned area . They had been accustomed for very many years to having everything done for them and, therefore, it seems reasonable and, I think, proper that at least for a measure of time they are better placed in their own intere t as lessees where a measure of control over sanitation and such matters can be exercised. In support of that statement I have just made, I have before me a statement which came from Dr. Giglioli's Department of the Sugar Producers' Association. An experiment of that sort has already been made in the Colony. At Skeldon there is an area known as the Kingston Settlement, and in that area the land was cut up and sold to numerou person . I have in front of me a report from the Sanitary Inspector of the Sugar Producers' Association which is somewhat lengthy but it describes the deplorable condition of the area. The e tate having sold that land to those people had no further authority over it and apparently the Government Sanitary Authorities seem not to be able to effect much improvement also. I will just quote one or two items:

"As a result of this, several persons have built nice big houses, but have now divided up usually the ground floor into small cubicles of approximately 7' or 8' x 10', turning the houses into "tenement houses". In one such house recently I found five tenant-families living in these tiny rooms, and **in one of the rooms a family of five persons.**

"There were no sanitary, cooking or bathing facilities. except one communal tap which served a big portion of the area some distance from the house; a one-seat pit latrine to serve all families in that house, and cooking arrangements were probably a coal-pot which I did not see.

"The tenants of the area, I believe, do not wish to link up with the Skeldon Village Authority, but run their own community by their own committee, which they have set up.

"However, this committee have not put a levy on the tenants to upkeep their sanitation, roads, drains, etc., or keep down the grass and bush growing on the not yet built-on lots.

"As a result, here is a very unsatisfactory state of affairs, gradually deteriorating, and in close proximity to the Estate houses."

I have taken the trouble to get that information because I rather wish to suggest that it is a warning of what might happen unless a measure of control is exercised for some—if you like to describe it as "a learning"—period. Enough has been said on that point. The hon. Member for Central Demerara also made reference to the possibility of persons taking up and leasing such pieces of land and being ejected if they were a nuisance to the Estate Authorities or to their neighbours. He evidently is quite unaware that there are no conditions of attachment; there is no suggestion or intention of it. The lease itself makes it perfectly clear that the occupation and leasing of any of these lots ties the individual to no estate. The individual leasing such lot is a free agent; he may work for the estate if he wishes to and he need not work if he does not wish to. Once he has taken up the lease and is established there, the estate cannot touch him.

The hon. Member also made reference to page 318 of the report of the Rural Housing sub-Committee of the Ten-Year Plan Development Committee, which has parts of Dr. Giglioli's report. He referred to the willingness of the sugar industry to contribute what amounts to $73,000 towards a particular housing scheme. This matter is not parallel to the matter under discussion in any way. First of all, the question at that time and the areas referred to at that time were related to three estates — Wales, Versailles and, I think, Port Mourant. Today we are dealing with a comprehensive scheme covering the sugar industry of the Colony. It is true that at that time the industry, realizing the importance and necessity of establishing settlement areas, did make such an offer. But the fact that it has never materialized is no fault of the sugar industry, as that was part of a scheme which, I think I am correct in saying, was fostered by Government mainly from Colonial Development and Welfare Fund, and the sugar industry to show their good faith and, perhaps if you like to put it that way, that they were really serious offered as their contribution, as is stated, some 266 acres of land at a nominal figure, which was valued then at $73,000. The fact that the scheme was not implemented is not the fault of the sugar industry. I presume the proposal was dropped owing to possible demands on those funds which we regarded as having the greater priority. That is as much as I can say on that matter. In the meanwhile the Sugar Welfare Fund came into being and superseded it. As the hon. the Seventh Nominated Member stated, the industry has very definitely stated that it is willing to hand over these areas to Local Authorities and let them look after their own affairs in due course. When the time does come that it is a question of transfer of land to Government or whatever necessary Authority may require or may be called upon to handle these lands, I think, everyone will find that the sugar industry will be quite reasonable.

Mr. FERNANDES: I am not going to oppose the Bill, but as a general principle I am against leasehold where it comes to a man's home. It is a different matter where the land is for agricultural purpose. I really cannot see how you can supply one-tenth of an acre or a much smaller size to a person. I have always said in this Council —it is my opinion and I shall always fight for that—every person should be given the opportunity of owning the land on which he has his house.

Dr. SINGH: Everything was covered by the hon. the Seventh Nominated Member except that he did not tell us about the genesis of this Fund. At the end of 1950 the Fund stood at $1,500,000. At that time it was thought we should look after the welfare of the people on the estates, providing community centres, playgrounds, etc., so as to divert the attention of the youngsters from the spirit shops to such places with amenities where they can

pass their time in a better way. Then the Venn Commission came and we thought of the dilapidated condition of the ranges on the estates and considered it a good opportunity for us to improve the housing condition. As we thought of that, the sugar workers in the villages aid "What about us? We are sugar workers and whatever amenities are given to those on the estates should be given to us." We thought of that also, and that is how these "extra nuclear" plots of land came in. The conditions are more or less the same for the people in the "nuclear" area.

The question of lease came up. That is the bone of contention of many people outside. I am sorry I was not present at the meeting of the Committee which was held yesterday. Up to then it was agreed on a lease of 21 years, and I am very pleased to hear from you, Sir, that was further extended to 25 years. It is asked: "Why should we lease for 25 years? Why not allow the people to pay for the land in small amounts and let it be theirs?" We went into the pros and cons of the whole thing and thought it better to continue as in the case of some of our land settlements. That was agreed upon and notices were published since September last with the nature of the lease, the terms on which the leases are to be given and the amount of money to be given. The sum of $500 was not thought of at that time to be given to build a house because the people had their own money to assist themselves in building their houses. However, at the meeting I protested against the small amount of land to be given—one-tenth of an acre to be given to each person. I said it should be one-fifth so as to allow these people an opportunity when they are not working on the estate to work on their kitchen gardens. But it was stated definitely that the amount of land available was on the short side and we mu t be contented with one-tenth and provide other amenities, such as cow-byre, community centre, etc. We agreed to that.

The land was laid out and it was agreed that the Estate Authorities would look after the streets, sanitation and pure water supply, while the owners of the lots would look after their interlot drains. The question was raised about the right of renewal and the descendants of the people who lease the land at the present time. They need not have any fear that they will be ejected. On the whole the people were satisfied, but lately they began to lose confidence and were saying that we were playing with the situation. The money is there to start lending, but we can do nothing as we have not the machinery necessary. If this Bill is passed it would assist the members of the Committee, as we would then have the authority to negotiate and thus be able to eliminate all the doubts created in the minds of the people.

Coming to the question of what will happen eventually to these "extra nuclear" areas, they will become village areas. They will be taken over by the villages in time to come. That is to be the end of the scheme. I shall be very pleased for this Council to pass this Bill so that we can start giving the people the $500 each.

Mr. PETERS: To a point of information! I would like to know whether hon. Members of this Council are to obtain a copy of this lease. We are asked to discuss it, but we do not know what it is. I think if Members are supplied with a copy it would assist greatly.

The PRESIDENT: Is it possible to let Members of Council have a copy of the lease?

The ATTORNEY-GENERAL: I will see whether we can make copies for hon. Members of Council.

Question put, and agreed to.

Bill read a second time.

The Council adjourned to 2 p.m. on Friday, 4th May, 1951.