

LEGISLATIVE COUNCIL

Thursday, 5th April, 1951.

The Council met at 2.00 p.m., the Deputy President, the Hon. C. V. Wight, C.B.E., in the Chair.

PRESENT.

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

The Hon. the Colonial Secretary, Mr. J. Gutch, O.B.E.

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

The Hon. T. Lee (Essequibo River).

The Hon. W. J. Raatgever (Nominated).

The Hon. V. Roth (Nominated).

The Hon. C. P. Ferreira (Berbice River).

The Hon. T. T. Thompson (Nominated).

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

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

The Hon. D. P. Debidin (Eastern Demerara).

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 4th of April, 1951, as printed and circulated, were taken as read and confirmed.

PRESENTATION OF DOCUMENT.

The COLONIAL SECRETARY laid on the table a Statement of the Accounts for the year ended 31st December, 1949, of the Georgetown Mariners' Club.

RE-EMPLOYMENT OF RETIRED PUBLIC OFFICERS.

Mr. FERNANDES: Sir, before we proceed to the Order of the Day, with your permission I would like to refer to a motion, item 15 on the Order Paper. In view of the purpose of the motion and what has appeared in one of the daily newspapers, I would ask that that motion be taken as soon as we are through with item 1,

The DEPUTY PRESIDENT: As soon as we are finished with item 1 I would suggest that the hon. Member might move the suspension of the Standing Rules and Orders to enable item 15 on the Order Paper to be taken.

(Motion by Mr. Carter recommending that the practice of re-employing officers in the Public Service after they have reached the retiring age be discontinued).

INCOME TAX (IN AID OF INDUSTRY)
BILL, 1951.

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

"An Ordinance to encourage the establishment or development of industries in the Colony and to make provision for relief from income tax to persons establishing or developing such industries and for purposes incidental to or connected with any of the foregoing purposes; and to make provision for relief from income tax in aid of certain industries and the provision of workmen's homes."

As will be seen from the long title, the main objects of this Bill are to encourage the establishment and development of industries and to assist particularly productive industry and, to some extent, husbandry in the Colony. The proposals are deliberately framed to benefit productive and creative industry, as it is believed that the production of things by the establishment and development of secondary industries, rather than the mere distribution of things, is of paramount importance in the development of a balanced community in the Colony. It is proposed to achieve these objects by —

- (a) granting exemption from income taxation for five years to industries of a developmental and risk-bearing nature;
- (b) assisting industry to modernise, re-equip, and extend industrial buildings and plant and machinery by the grant of generous immediate allowances and thereafter annual allowances in respect of such expenditure;

- (c) encouraging scientific research to be undertaken in connection with industry, and the use of patents and inventions in industry by affording a generous write-off against profits of any expenditure so incurred; and
- (d) by allowing the write-off in 10 years of expenditure on the provision of houses for workers engaged in industry or husbandry.

Gold and diamond mining companies have been excepted as they are already eligible under the provisions of the Income Tax, Amendment No. 2 Ordinance, 1949, (Ordinance No. 3 of 1949) for the benefit of—

- (a) very generous wear and tear allowances;
- (b) carry forward of losses without limitation, and
- (c) reduced rate of tax for a period of years.

The Bill is divided into 8 parts with 4 Schedules. Part I provides for an income tax holiday period. Part II deals with industrial buildings, structures, etc. Part III deals with machinery and plant. Part IV relates to write-off with respect to mines, oil wells, and similar undertakings. Part V deals with write-off in connection with patent rights, while Part VI provides for write-off in connection with expenditure on scientific research, and for annual allowances. Part VII deals with housing of workers employed in certain trades mentioned in the First Schedule or in husbandry, while Part VIII deals with miscellaneous and general provisions. Then follow the four Schedules.

With regard to Part I of the Bill hon. Members will observe that clause 1 (2) seeks to restrict the application of Parts II to VII inclusive, except where otherwise expressly provided, to the trades and businesses specified in the First Schedule to the Bill. In the First Schedule are set out the various trades and businesses to which that is applicable. It is proposed to add to the First Schedule a new item (9) relating to rice mills. There is a proviso to sub-

clause (2) of clause 1 which empowers the Governor in Council by Order from time to time to vary the Schedule by adding thereto any other trade or business as he may think fit.

With respect to the tax holiday period it is provided in clause 2 (1) that —

“(a) where, in the opinion of the Governor or in Council, the trade or business carried on by a company save a gold or diamond mining company is wholly of a developmental and risk-bearing nature and is likely to be instrumental to the development of the resources of, and beneficial to the Colony, the Governor in Council may issue a direction to that effect and thereupon the income of such company for the five years of assessment commencing with the year of assessment in which such direction is issued (hereinafter called the tax holiday period) shall be exempt from income tax”;

I wish to emphasize the word “wholly” because it will be appreciated that in order to come within the ambit of that provision a trade or business must be *wholly* of a developmental and risk-bearing nature and likely to be instrumental to the development of the resources of, and beneficial to the Colony. The Governor in Council will examine the information or data submitted with regard to a trade or business, and will issue a direction to that effect, and upon the issue of such a direction the tax holiday period will begin to operate from that time. It is to be observed that gold or diamond mining companies are excluded from this provision in view of the fact that provision is already made for tax allowances for such companies under the Income Tax (Amendment No. 2) Ordinance, No. 3 of 1949.

I would like to point out that clause 2 (1) (b) provides that —

“(b) where, in the opinion of the Governor in Council, part of the trade or business carried on by a company, save a gold or diamond mining company, is of the description set forth

in paragraph (a) of this sub-section, the Governor in Council may issue a direction to that effect and, thereupon, the income derived from such part of the company's trade or business for the five years of assessment commencing with the year of assessment in which such direction is issued (hereinafter called the tax holiday period) shall be exempt from income tax;”

Then follows a proviso that if the end of the tax holiday period does not coincide with the end of an accounting period of a company, the income for the accounting period in which the last day of the tax holiday period falls shall be apportioned between the parts of the said accounting period which respectively precede and follow the end of the tax holiday period, and the income thus attributed to the part which precedes the end of the tax holiday period shall be exempt from income tax. In other words, if a tax holiday period comes to an end at the end of December, 1956, and the accounting period of a company falls on the 30th of June, 1957, the company would be required to pay the full rate for the overlapping period—January to June, 1957.

The provisions of Parts II to VIII inclusive of the Bill, where they are applicable to a company to which sub-clause (1) of clause 2 applies, shall commence to apply in the first year of assessment following the year of assessment during the basis period of which the tax holiday period ends. In other words, all those companies which come within the provision of the tax holiday period will become entitled to a write-off after the cessation of the tax holiday period.

The first proviso to sub-clause (2) of clause 2 provides that where the accounting period of a company does not coincide with the calendar year and goes beyond the tax holiday period, a company will not be permitted to claim allowances with respect to wear and tear of plant, machinery or buildings for that year, but their claim for wear

and tear will begin in the next year of assessment. The second proviso also provides that any capital expenditure incurred before the end of the tax holiday period shall be deemed to have been incurred on the first day following the end of the company's last accounting period. If hon. Members read the proviso they will see the full force of that provision.

Sub-clause (3) provides that during the tax holiday period, and within two years thereafter, a company shall be entitled to distribute to its shareholders a sum equal to the income arising during the tax holiday period, and such sum shall be exempt from the payment of income tax in the hands of such shareholders. Sub-clause (7) provides that —

“(7) Where the Governor in Council is satisfied that a company to which subsection (1) of this section applies has contravened any provisions of this Ordinance or of any Regulations made under this section, and that having regard to all the circumstances of the case it is expedient so to do, he may revoke the direction issued under sub-section (1) of this section and thereupon the provisions of this section shall cease to apply to such company”.

Part II of the Bill deals with industrial buildings and structures and initial allowances in respect of capital expenditure on the construction of a building or structure. Sub-clause (1) fixes the first day of January, 1951, as “the appointed day” on and after which a person who incurs capital expenditure on an industrial building or structure for the purpose of a trade may be allowed a deduction or an initial allowance equal to one-tenth of such expenditure. An initial allowance is granted for the basis period for which the expenditure is incurred, whether a building is completed or not. Sub-clause (2) provides that the year of assessment shall, in the case of a person incurring expenditure, be the year of assessment in the basis period for which the expenditure was incurred.

Sub-clause (3) provides that the

provisions of clause 3 shall apply in relation to expenditure incurred by a person on or after the first day of January, 1949, but before the appointed day as if it had been incurred by him on the appointed day. It is important to note that as provided in sub-clause (4) no initial allowance shall be made in respect of any expenditure if, on completion, a building or structure is not used as an industrial building or structure. Sub-clause (5) provides that any expenditure incurred on or after the first day of January, 1949, for the purposes of a trade by a person about to carry it on shall be treated for the purposes of the preceding provisions of clause 3 as if it had been incurred on the first day on which he does carry on that trade. In other words the expenditure incurred before the date of commencement of the trade will be regarded as having been incurred as from the date of the commencement of the business or trade.

Clause 4 provides for annual allowances of 2 per cent. of the capital expenditure on industrial buildings and structures, and for an adjustment of that allowance in the event of a sale. Clause 5 seeks to provide that in certain circumstances, and on the happening of certain events, the person possessing the relevant interest in the capital expenditure on an industrial building or structure shall be entitled to a deduction of the balance of expenditure not previously allowed (referred to as “a balancing allowance”), and to provide further that if there be a sale, insurance, salvage or compensation moneys in respect of any such building or structure, and those moneys exceed the residue of expenditure unallowed, the person shall be assessable in respect of such excess (referred to as “a balancing charge”) to a limit of the total amount previously allowed. For example, if a company constructed a building for \$50,000 and received an annual allowance of \$20,000, and then sold that building for \$25,000 it would be entitled to a balancing allowance of \$5,000. On the other hand, if the building was sold for \$35,000 the company would be liable to a balancing charge of \$5,000. On one side there is a balancing allowance, and on the other side a balancing charge.

Clause 6 deals with the writing off of expenditure and the meaning of "residue of expenditure." Sub-clause (9) provides that where the Crown is at any time entitled to the relevant interest in a building or structure, for the purpose of the writing off it will be treated as if the Crown was receiving annual allowance even though in actual fact the Crown does not get allowances, and is not taxed.

Clause 7 seeks to provide what shall be considered as the expenditure incurred on the construction of an industrial building or structure where such a building or structure is sold before being used.

Clause 8 seeks to provide for the cessation of wear and tear allowance under section 11 of the Income Tax Ordinance where deductions are allowed under this Part of the Bill, but provides further that where there is postponement under this clause of the application of this Part of the Bill during the said period, wear and tear shall continue to be allowed under section 11 of the Income Tax Ordinance.

Clause 9 defines an industrial building or structure. Clause 10 provides that a sports pavilion for the welfare of workers employed in the trade of the person occupying such a building shall be deemed to be an industrial building or structure, so as to give the owner a higher percentage in respect of his claim for initial allowance.

Clause 11 deals with the meaning of "the relevant interest"—which is "*in relation to any expenditure incurred on the construction of a building or structure, the interest in that building or structure to which the person who incurred the expenditure was entitled when he incurred it.*"

Clause 12 seeks to provide for the temporary disuse of industrial buildings or structures. This allows a claim for an allowance, although it is temporarily not used as an industrial building or structure. Clause 13 provides that a period of requisition of any land by the Crown shall be considered as if the Crown were the lessee thereof, and also provides for matters conse-

quential on that provision. Clause 14 provides for the exclusion of double allowances under Parts II, III and IV of the Bill. As will be seen Part III deals with machinery and plant.

Clause 16 seeks to provide that, in ascertaining the chargeable income of any person who incurs on or after the 1st January, 1951, (referred to as "the appointed day") capital expenditure on the provision of machinery or plant, an allowance of a deduction of 40 per centum of the capital expenditure thereon (referred to as an "initial allowance") shall be allowed to him for the year of assessment in which the profits of the year (called the "basi period") in which the expenditure was incurred is taxed. It also provides that similar expenditure incurred on or after the 1st January, 1949, but before the 1st January, 1951, shall, subject to certain exceptions and adjustments, be treated as having been incurred on the appointed day (1st January, 1951). In other words, it is brought forward and regarded as being expended or incurred on the 1st January, 1951, the appointed day.

Clause 17 provides that, for the purpose of wear and tear allowable under section 11 of the Income Tax Ordinance in respect of machinery or plant to which this part of this Bill applies for the year of assessment, 1951, and subsequent years of assessment—

- "(a) wear and tear shall be allowable on the machinery or plant in use at the end of the period the profits of which are taxed in the relevant year of assessment; and
- (b) in the case of machinery or plant provided on or after 1st January, 1951, wear and tear shall be allowable only on the actual cost to the person providing it."

Clause 18 seeks to provide that in the case of machinery or plant in respect of which an initial allowance or deduction under section 11 of the Income Tax Ordinance has been allowed, on the happening of certain events and in certain circumstances, an allowance of the unallowed expenditure thereon (called "a balancing allowance") shall be

made, but that if there be sale, insurance, salvage, compensation, etc., moneys and these exceed the unallowed expenditure, an assessment (called "a balancing charge") shall be made in respect of such excess to a limit of the amount previously allowed. It also provides in such an event for a consequential adjustment of any balancing allowance or balancing charge that may fall to be allowed or made in respect of the new machinery or plant. I have already explained "balancing allowance" and "balancing charge".

Clause 19 provides that where an event gives rise to a balancing charge and the machinery or plant in respect of which it should be made is replaced by the owner thereof, on his election the balancing charge may be reduced or not made, as the case may be, but that the expenditure on the new machinery or plant would in such an event be considered to be reduced thereby, and initial and wear and tear allowances, if any, consequentially reduced. It provides further in such an event for a consequential adjustment of any balancing allowance or balancing charge that may fall to be allowed or made in respect of the new machinery or plant.

Clause 20 defines the term "expenditure unallowed".

Clause 21 provides that expenditure on any alteration to any existing building incidental to the installation of machinery or plant may be included in the expenditure incurred in providing machinery or plant, and thus have applied to it the higher rates of initial allowance and wear and tear allowance in respect of machinery or plant than that allowed under Part II of this Bill.

Part IV deals with mines, oilwells and similar undertakings. Clause 22 sets out the expenditure to which Part IV of this Bill applies.

Clause 23 seeks to provide that in ascertaining the chargeable income of

any person working a mine, oilwell or other mineral deposits, who incurs on or after the 1st January, 1951, (called "the appointed day") capital expenditure to which Part IV of this Bill applies, and the expenditure is subject to certain conditions, an allowance of a deduction of one-tenth of that expenditure (referred to as "an initial allowance") shall be allowed to him in the year of assessment in which the profits of the year (called "the basis period") in which the expenditure was incurred is taxed. It also provides that similar expenditure incurred on or after the 1st January, 1949, but before the 1st January, 1951, shall, subject to certain exceptions and adjustments, be treated as having been incurred on the appointed day (1st January, 1951).

Clause 24 seeks to provide for an annual allowance in respect of expenditure to which Part IV of this Bill applies.

Clause 25 seeks to provide for the granting of a balancing allowance, or the making of a balancing charge in the event of a sale of assets representing expenditure to which Part IV of this Bill applies, to a buyer engaged in a similar trade and using the acquired assets for similar purposes; and also to provide for the determination of such balancing allowance or balancing charge, and for the determination of the amount of expenditure on the acquired assets which the buyer shall be deemed to have incurred for the purposes of annual allowance and balancing allowance and balancing charge to be allowed to or made on the buyer. Clause 26 provides—

- (i) that expenditure to which Part IV applies incurred by a person about to carry on the working of a mine, oilwell or other mineral deposits shall be deemed to have been incurred by that person on the first day on which he in fact commences to carry on his trade;
- (ii) that no initial allowance shall in these circumstances be granted in respect of expenditure in-

curring before 1st January, 1949; and

- “(iii) what shall be deemed to be the expenditure on such assets incurred by a purchaser, where the assets representing expenditure on the searching for, discovery and testing mineral deposits of any mine, oilwell, etc. are sold before the person who incurred the expenditure commenced the working of the source”.

Clause 27 seeks to give the Governor in Council power to make regulations for carrying Part IV of this Bill into effect, and sets out what regulations may be made, laying down rules for determining—

- “(a) the extent of the mineral deposits which are to be taken, for all or any of the purposes of this Part of this Ordinance, as constituting a source and the amount of the output of the source in any year or over any period, and in estimating total potential future output for any of those purposes;
- “(b) the residue of the expenditure attributable to an asset immediately before, or immediately after, the sale thereof;
- “(c) what assets are to be treated as representing that expenditure and how much of that expenditure is to be treated as incurred on any particular asset;
- “(d) whether and by how much —
- (i) the amount of the expenditure which, under this part of this Ordinance, a person is to be treated as having incurred on the appointed day is inadequate, or
- (ii) the amount by which any allowance is to be reduced under this Part of this Ordinance is excessive”.

Part V relates to expenditure on patents and patent rights. Clause 28 provides for the granting of an annual allowance to a person who incurs, on or after 1st January, 1951, capital expen-

diture on the purchase of patent rights, income from which would be liable to income tax. Clause 29 deals with the effect of lapse of patent rights, sales, etc. It seeks to provide for —

- (i) the cessation of any annual allowance on the happening of certain events before the expenditure on the purchase of any patent rights has been fully written off;
- “(ii) the allowance of a balancing allowance to and the making of a balancing charge, subject to limitations, on the person who incurred the expenditure;
- “(iii) the adjustment of any annual allowance in the event of the sale of part of the patent rights in respect of which the expenditure was incurred; and
- “(iv) the determination of the amount of capital expenditure unallowed.

Clause 30 deals with charges on capital sums received for patent rights. It seeks to render chargeable to income tax capital sums received in consideration of the sale, on or after the 1st January, 1951, of any patent rights. Such a charge is the corollary to the allowance, under clauses 28 and 29 of this Bill, of the capital sums expended in the purchase of patent rights. Clause 31 is self-explanatory and clause 32 deals with relief for expenses allowed as a deduction. Clause 33 provides for the spreading of income payable in respect of the user of a patent over several years, and clauses 34 and 35 are self-explanatory.

Part VI deals with expenditure on scientific research, which is defined in clause 43 (1) as meaning “any activities in the fields of natural or applied science for the extension of knowledge”. Clause 36 provides for the allowance as an expense incurred for the purposes of trade, expenditure, not of a capital nature, incurred by any person on or after 1st January, 1951, on scientific research related to his trade. “Scientific

research expenditure" is defined in clause 43 (1) as meaning "expenditure incurred on scientific research; references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of scientific research, but save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of scientific research; references to scientific research related to a trade or a class of trades include—

(a) any scientific research which may lead to or facilitate an extension of that trade or, as the case may be, of trades of that class;

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that trade, or as the case may be, trades of that class.

Clause 37 brings within the provisions of clause 36 expenditure incurred on or after the 1st January, 1949, but before the 1st January, 1951, if but for that fact, the provisions of clause 36 would have applied to such expenditure. Clause 38 deals with allowances of expenditure of a capital nature incurred after the appointed day. Clause 39 provides special provisions with regard to assets representing scientific research expenditure and also against double allowances under Part VI of the Bill and any provisions of the Income Tax Ordinance. Clauses 40 and 41 are self-explanatory. Clause 42 provides against double allowances under Parts II, III and VI of the Bill.

Part VII relates to housing of workers employed in any of the trades mentioned in the First Schedule or in husbandry. Clause 44 provides that in ascertaining the chargeable income of the owner or lessee of land who incurs on or after the 1st January, 1951 (the appointed day), capital expenditure on the construction of work-

ers' houses, an allowance of a deduction of one-tenth of such capital expenditure shall, in the year of assessment after that in which the expenditure was incurred, and in each of the succeeding nine years of assessment, be allowed to him. Clause 45 seeks to limit the amount of expenditure on any building qualifying for the allowance provided for by clause 44. Clause 46 sets out the mode of dealing with any annual allowance after transfer of land, etc. Clause 47 provides for the cesser of any annual allowance during temporary non-use of any building housing workers. Clause 48 sets out the mode of claiming deductions under Part VII of the Bill. Clause 49 is the Interpretation clause, and clause 50 I will deal with at a later stage.

Part VIII deals with miscellaneous and general matters. Clause 51 sets out the manner of charging the tax and granting allowances under the provisions of this Bill. Clause 52 defines "basis period", and clause 53 seeks to provide for the apportionment of any consideration on the sale of any property, and to include in the term "sale" any exchange of property or surrender of any leasehold interest. Clause 54 provides for sales of property effected between inter-related persons, and clause 55 deals with trade marks and designs, allowing in ascertaining chargeable income, the deduction of fees paid or expenses incurred on or after the 1st January, 1951, in respect of the registration or extension of trade marks and designs. Clause 56 is self-explanatory and deals with the interpretation of certain references to expenditure, etc.

Clause 57 seeks to provide that—

(a) subsidies shall not be taken into account in arriving at the amount of expenditure incurred on or after the 1st January, 1951, by any person;

(b) a contributor to capital expenditure shall in certain circumstances be entitled to the allowances provided

for by Parts II, III or IV of this Bill, in the manner set forth in the Fourth Schedule to this Bill.

Clause 58 seeks to provide that in determining cost of maintenance, repairs, insurance and management to any person, certain subsidies shall be left out of account. Clause 59 is a further Interpretation clause, and clause 60 provides for the amendment of section 23 of the Income Tax Ordinance, Chapter 38, for all purposes.

This measure, hon. Members will agree, seeks to provide very solid and substantial concessions in order to encourage the development of industries and to stimulate those industries in this Colony. Time and time again hon. Members in this Council have emphasized the need and the desirability for more production and the utilization, as far as practicable, of the valuable potential resources of the Colony. Therefore I am sure that a Bill of this nature will be welcome to hon. Members, as it seeks to give a fillip to the encouragement of those who have the necessary capital to come to this Colony and assist in the development of its potential resources.

As I have said before, this Bill is divided into eight parts, and, I suggest to hon. Members, that on analysis of these eight parts it will be seen that the concessions are very generous. To recapitulate them —

Part I deals with the tax holiday period—a five years period of exemption from income taxation.

Part II deals with industrial buildings and structures. It will be seen on reference to clause 3 (1) that an initial allowance or deduction equal to one-tenth of the expenditure is to be granted, and on reference to clause 4 (1), an annual allowance equal to one-fiftieth of the expenditure until the total expenditure is written off.

Part III deals with machinery and plant. It will be seen from Clause 16

(1) that an initial allowance equal to two-fifths of the expenditure is provided, and from clause 17 (1) that provision is made for allowance for wear and tear under section 11 of the Income Tax Ordinance.

Part IV deals with mines, oilwells and mineral deposits, and provision is made for an initial allowance, as will be seen from clause 23 (1), and an annual allowance based on the output in the basis period and the total potential future output.

Part V deals with patents, and provides an annual allowance in respect of capital expenditure on the purchase of patent rights. It is to be observed that there is no initial allowance provided with regard to patents.

Part VI deals with scientific research and gives an initial allowance of 60 per cent., as will be seen on reference to clause 38, and a further allowance of 10 per cent. for each of the succeeding four years.

Part VII of the Bill deals with the question of the housing of workers employed in any of the trades mentioned in the First Schedule, or in husbandry, and provides for annual allowances for capital expenditure on workers' dwellings of one-tenth of such expenditure, with a limit of such expenditure of \$4,000. It will be within the recollection of hon. Members that this matter was referred to by the hon. the Financial Secretary during the course of the debate on the Report of the Venn Commission. The action proposed by Government on the recommendation by the Venn Commission was announced as follows:—

“The revision of the local income tax law is being considered with a view to the provision of, *inter alia*, more generous allowances for the replacement of capital, on the lines of the United Kingdom Finance Acts, 1945; the question of making welfare expenditure on approved schemes, including housing schemes, eligible for relief will be considered in

this connection, but it is felt that it would be unfair to provide a special privilege, such as that recommended by the Venn Commission, for one industry alone."

Consequently, art VII of the Bill, which deals with allowances in respect of workers' houses, seeks to carry into effect the policy as outlined in the note on the Recommendation of the Venn Commission. In the Bill as drafted provision is made for workers' houses erected in connection with mining undertakings to be allowed the benefit of a 10 per cent. initial allowance and an annual allowance of 2 per cent. under clause 9 which refers to industrial buildings and structures. Clause 50 excludes from this provision the working of any mine, but it is felt that the buildings erected as workers' homes by mining undertakings should receive the same allowances as other buildings erected for workers. Consequently it is proposed to delete the proviso to clause 9(b) and also clause 50, and to insert a new clause 55 with a definition of "building" which would permit any composite building which may be used as flats or apartments to get the benefit of the allowances under clause 44.

I think I have tried to deal with this Bill as fully as possible. Perhaps hon. Members may think I have done so in too much detail, but I consider it is a very important measure, and one that should lead to greater economic benefits to this Colony and to the community in general. I formally move that the Bill be now read a second time

The FINANCIAL SECRETARY & TREASURER seconded.

Mr. DEBIDIN: I would like to make a few comments. First of all I feel that the Bill ought to be referred to a Select Committee of this Council in order that the full implications of its various clauses may be studied and a report made to this Council. I tried to understand the Bill but I must say

that it is particularly vague to me as a lawyer, and I expect that it would be more so to the layman. I do not know whether it is the general practice that income tax law should be difficult of construction by people other than those qualified in income tax, but when I tried to read the "Objects and Reasons" I also found very little help. The hon. the Attorney-General has had to admit that he spent an hour trying to convince us on the Bill and, speaking for myself, I am none the wiser. I believe that if he had left his notes aside he would hardly have made the explanations he has made.

From the head notes the Bill seems to be a very useful one, and we have already acknowledged the practical utility of it, but there are certain aspects which must be considered. For instance there is the question of time. The number of years during which remission of income tax is to be granted under the various heads is something that must be considered very carefully because, as I said when we were dealing with the Bill for remission of Customs duties on certain machinery, the Colony must be safeguarded against any loss of revenue. We are not that much wealthy that when we are seeking to give companies coming in every fillip and stimulus for development, we must also give them long-term concessions in the form of a gift.

There is an important clause in Part VII of the Bill dealing with housing. Speaking from the point of view of the sugar industry I consider it a very welcome provision. I would like to see all the ranges on sugar estates pulled down and proper houses erected in their place. I would like to see that done almost immediately. I do not consider it unnecessary to repeat what I said before—that it is no use allowing certain people to live under better conditions and permitting the great majority to live in hovels which are not fit

for human habitation for any length of time. The question of housing for workers on sugar estates seems to me to call for immediate reconsideration, and I am glad to see that provision is made for it in this Bill, but I see that clauses in this Bill presuppose a period of 10 years. If I am wrong it is because construction of the clauses is very difficult. I hope it does not mean that the sugar industry will take 10 years to erect the buildings in respect of which allowances will be granted in respect of income tax.

The FINANCIAL SECRETARY & TREASURER: It does not mean that at all. It means that any sugar plantation may write off capital expenditure incurred in the erection of workers' homes in 10 years. That is to say that they may deduct from their chargeable income year after year one-tenth of the capital expenditure incurred in the erection of those workers' homes.

Mr. DEBIDIN: When I read clause 44 I did not know how to construe it. The clause reads:

"44. Subject to the provisions of and save as otherwise provided in this part of this Ordinance, where on or after the first day of January, 1950, any person engaged in any of the trades mentioned in the First Schedule to this Ordinance, or, being the owner of an estate consisting of or including agricultural land, incurs capital expenditure on the construction on land, whereof such person is the owner, of a building to be occupied as a residence by workers employed by any such person in any such trade or in husbandry, in ascertaining the chargeable income of such person in the year of assessment immediately thereafter, and in each of the succeeding nine years of assessment, there shall be allowed as a deduction a sum equal to one-tenth of such capital expenditure".

I am assuming that this refers to annual capital expenditure. How else can one who reads this clause construe it? If it is intended to mean that the expenditure would be written off after 10 years, in my humble opinion the clause does not say so. I am glad I

have got an interpretation of the clause. It is important that we know the full implication of each of the clauses of the Bill. I am construing this clause literally, or in my own way, while the hon. the Financial Secretary, with his knowledge of income tax law, construes it another way, which is perhaps correct.

I move that a Select Committee of persons capable of going into this matter be appointed to consider the Bill. The Committee would have an opportunity, just as we have in Finance Committee, to get all the information they require from those capable of giving it. For that reason I hope the Financial Secretary would be on the Committee, so that we might be able to understand the Bill, and after the Committee has reported the other Members of the Council would be able to vote quickly on the various clauses of the Bill.

I cannot agree to the principle that exemption from income tax should date back to the 1st of January, 1949. Personally I do not see why it should be granted to companies which are already in operation, because the object of the Bill is to stimulate and develop industry. Unless I get a full explanation I do not see why that should be. I do not want to enter into a discussion of something which I do not fully understand. For that reason I am moving that a Select Committee be appointed to go into the details of the Bill and report to the Council early.

Dr. JAGAN: There is a lot in what the hon. Member has just said, and I would like to support him in a king that the Bill be referred to a Select Committee. I formally second the motion.

Mr. FARNUM: I certainly do not agree with the suggestion that the Bill be referred to a Select Committee. We know how long Select Committees take to report, and it is quite possible that a couple of years may elapse before we

have a decision on this matter. We know that in Trinidad, and I think in Jamaica, similar legislation has already been put into operation, as a result of which industries are springing up in those islands. They have established a brewery in Jamaica and textile, glass and bottle-making factories in Trinidad, while we are still groping in the dark.

The FINANCIAL SECRETARY & TREASURER: I would like to speak on the motion for the appointment of a Select Committee unless I would be out of order.

The DEPUTY PRESIDENT: I think you would be out of order.

Mr. FERNANDES: The hon. nominated Member, Mr. Farnum, has referred to the corresponding Ordinance in Trinidad. I have a copy in my hand. It is about one-fifth the size of the Bill we have before us.

The FINANCIAL SECRETARY & TREASURER: There are two Ordinances in Trinidad.

Mr. FERNANDES: The one I have is No. 13 of 1950.

The ATTORNEY-GENERAL: The Trinidad Ordinance, No. 12 of 1950, is similar to this Bill. No. 13 of 1950 is the Aid to Pioneer Industries Ordinance.

Mr. FERNANDES: Anyway, I am quite prepared to go through with the Bill although I do not agree with everything in it. I agree to the Bill in principle and therefore will not take up too much time in speaking on the second reading. I will have an opportunity in Committee to say what I have to say on each clause. I would not like to delay the Bill any longer because it is legislation that is badly needed. I do not think any useful purpose would be served by sending the Bill to a Select Committee. It would only mean that a few Members who are appointed to the Committee would have a little better opportunity to

discuss it between them, but I do not think it would make for any greater progress in the Council. The only thing I would ask is that we go through the Bill in Committee slowly, because it is very difficult to understand.

Mr. PHANG: I am supporting the remarks of the hon. Member for Georgetown Central (Mr. Fernandes). If the Bill is referred to a Select Committee I am afraid we would not get its report for a very long time. I think we should get on with the job.

The FINANCIAL SECRETARY & TREASURER: I would just like to say a few words. As I remarked when the companion Bill to this was being taken through the Council (I am referring to the Industries Aid and Encouragement Bill) we in the Caribbean area have been having a race or competition to provide these statutory incentives or inducements to capital to come in. We in British Guiana are rather late in the field, as someone said. Trinidad and Jamaica took what we call locally "the first jump" and have already got Ordinances of this nature on their Statute Books. As a matter of fact we have been criticized for having failed to take this step earlier, and it has been suggested that, had we done so, we would have seen capital flowing into the country to engage in undertakings like mining industries, to which reference was made yesterday. Well, let us hope that when we get this Bill through some such development will result.

We cannot have income tax without tears. It is one of the most complicated and technical subjects both in its accounting sphere and its legal sphere. I am not at all surprised that the hon. Member for Eastern Demerara (Mr. Debidin), who is a lawyer, has failed even to appreciate the meaning of one of the accounting clauses. It is the least difficult of all the clauses. It is no cause for amazement, because some of the High Court Judges have had to specialise in the interpretation of income

tax law and practice. It is a very difficult subject.

This Bill has been taken almost wholly from the Trinidad Ordinances which, in their turn, have been modelled completely on the U.K. Finance Act of 1945. The wording, therefore, has the authority of all the best income tax legal draftsmanship brains, and there is nothing, or very little, we can do here to improve it. But I do want to explain that, apart from the technicalities dealing with the machinery for preventing abuses, and for carrying out what is intended by the law, the Bill is very simple. We are really trying to provide concessions and relief in respect of income tax in order to induce capital to come in and engage in the development of industry, and as the hon. the Attorney-General has summarized at the end of his speech, what we have done in this Bill is very simple. We have provided for a tax holiday period of five years in the case of businesses or undertakings that are wholly developmental and risk-bearing. Another word to use in that respect might have been the word "pioneer". We have not used that word in this Bill but the significance is precisely the same. Pioneer industries which are wholly developmental and risk-bearing will be allowed five years free from income tax. That is all there is to that. The other clauses in Part I of the Bill are merely ancillary. They merely serve to prevent abuses and to explain how the law is to be carried out.

The next thing is to provide for special allowances for industrial buildings and structures. That is necessary because, under the English income tax law and practice, industrial buildings and structure do not qualify for depreciation allowances at all, and to some extent, although we have been more generous in British Guiana, we are about to follow that practice. So that in this Bill we are providing for an initial depreciation allowance of 10 per cent. in the first year of capital expenditure on industrial buildings and structures, and

thereafter a much smaller allowance each year of 2 per cent. of that capital expenditure.

The next thing is to provide for machinery and plant. Where an undertaking expends capital on new machinery and plant it will be eligible for a 40 per cent. initial depreciation allowance in the first year. Obviously, that is a very important stimulus. Hon. Members can visualize a large firm wanting to embark upon some special or new process and knowing that on the expenditure of that money they will be allowed to write off from their chargeable income 40 per cent. in the first year and, thereafter, an allowance such as would normally not be granted under the income tax law. That is an inducement to go ahead and spend money on new equipment.

Then there is Part IV of the Bill which deals with mines, oil wells, etc. All the Bill seeks to do is to allow expenditure to be written off as a charge against profits—expenditure on things like explorations and the sinking of shafts in a mine—and the measure of write-off allowed is a proportion of the estimated life of the mine, or 5 per cent., whichever is the greater. That is all that is being done in Part IV.

Then there is another section of the Bill dealing with expenditure on patents. That has been put in because it is in the English Act and the Trinidad Ordinance, but I do not suppose it is going to be used here for a long time to come. It allows patent rights to be written off for the estimated life of the patents, or for 14 years.

There is also provision for scientific research, and in the case of capital expenditure there is a generous concession of 60 per cent. of the cost in the first year and 10 per cent. in succeeding years. That is a practical stimulus to new concerns to go in for scientific research.

Lastly there is an important part of the Bill which permits expenditure on the housing of labourers, on the construction of workmen's houses, to be written off for a period of 10 years with a limit that the amount to be written off shall not exceed \$4,000. It does not mean that if \$10,000 is expended on a building that amount will be allowed to be written off. All it means is that \$4,000 of that sum will be allowed to be written off in 10 years. That is a most important provision at the moment, because we all want to see all undertakings which could provide houses for their workmen encouraged to do so.

All the other clauses of the Bill which the Attorney-General has been good enough to explain in such detail are really ancillary to those seven points I have outlined, and the layman (and by that I mean the taxpayer as opposed to the expert Tax Commissioner) need not really concern himself in too much detail with all those complicated clauses which are provided in order to prevent abuses, for one thing, and to set out how this machinery shall function. In point of fact I honestly hope that very few of those provisions will have to be used. They are there as protective clauses in the Bill, but I do not suppose that many of them will have to be used. Nevertheless they must be there.

If the Bill is referred to a Select Committee what will happen? I admit that the Executive Commissioner of Income Tax, who is an expert in this business, and possibly myself—because I happen to know a little about it—will get together and try our best to explain as best we can to Members what it is all about, but we would not be able to improve the language in the Bill in any way, and I can assure the hon. Member who made the suggestion, that the report of the Select Committee, if it is written, would be nearly as incomprehensible as the Bill itself, or as the Objects and Reasons attached to the Bill. As I have said, we cannot have income tax without tears. I have tried

to explain what this Bill is all about, and I do plead with hon. Members to accept those seven or eight points I have dealt with as the issues with which they should primarily concern themselves in accepting or rejecting this particular measure.

THE DEPUTY PRESIDENT: I put the question "That the Bill be now read a second time."

Mr. DEBIDIN: The motion for the deferment of this matter, which I have moved, has not been withdrawn.

The DEPUTY PRESIDENT: I think there is some misapprehension about it. I would like to make the position clear. Under Rule 17, if an amendment is moved, the motion is put. The Rule seems perfectly clear. If that motion, which is the original motion, is lost, and there is only one amendment, it is put; if there are more than one amendment they are not. With regard to amendments, they are never to be put first, except when Bills are in Committee. That is provided for under Rule 37. Those are the Rules of this Council and that is the position. Therefore I am putting the original motion, which is that the Bill be read a second time. If the hon. Member is against that and is in favour of his amendment, then he would vote against the original motion. Those Members who prefer the amendment—that the matter be referred to a select committee—will vote against the motion. If that is carried, then I shall put your amendment.

Mr. DEBIDIN: May I be permitted to say that what I have moved is not an amendment to the motion for the second reading. It is a substantive motion. I agree with your interpretation.

The DEPUTY PRESIDENT: If it is a substantive motion, I cannot allow it at all.

Mr. DEBIDIN: It is a motion for the deferment of the second reading, which must be taken on its own. It is

an allowable motion to be moved and, therefore, cannot be tied on to the motion for the second reading. If it were an amendment to that I would agree with your interpretation. This is a definite motion to defer the second reading, which is an independent motion, I respectfully submit.

The DEPUTY PRESIDENT: That is not the correct way of putting it. The correct way is "That this Bill be read a second time at some future date." The original motion is "That the Bill be now read a second time". If the hon. Member's motion is a substantive motion, I would rule it out of order. The only way, and the correct way, to achieve his desire is to move "That the Bill be read at some future date." That is the form of amendment usually put, according to the House of Commons Rules, and not that the debate be adjourned like that. The position is that the hon. Member should move correctly. I am only allowing it, if it is possible to get it cleared up once and for all. The amendment should be that the Bill be read a second time any time from now. That is the correct way to move an amendment of the nature the hon. Member is attempting. If it comes to that the hon. Member can then move a substantive motion.

Mr. DEBIDIN: My motion was that a Select Committee be appointed to go into the Bill, and that the second reading be deferred. That is a motion which affects the second reading, but at the same time the substance of that is that a Committee be appointed on deferment of the second reading.

The DEPUTY PRESIDENT: What the hon. Member is trying to do is to move two motions.

Mr. DEBIDIN: I have to bow to your ruling; not that I agree with it.

The DEPUTY PRESIDENT: If hon. Members agree to what the hon. Member desires, all they have to do is to vote against the original motion. If that is not in the majority, then I would

put the motion that the Bill be referred to a Select Committee. If hon. Members vote for the second reading it is obvious that they are against the hon. Member's motion.

Mr. FERNANDES: I am going to ask for an expression of opinion on this. I do not agree that if the motion for the second reading of the Bill is defeated nothing else goes out. It only means that the Bill is thrown out and we have to start all over again. If the motion for the second reading is defeated there is no room for any amendment, as the Bill is thrown out on the second reading.

The DEPUTY PRESIDENT: Perhaps the hon. the Attorney-General would explain. The question is "That the Bill be now read a second time." The inflection is on the word "now".

The ATTORNEY-GENERAL: The whole point is this: The motion, as the hon. the Deputy President has said, is that the Bill be now read a second time. At the second reading the principle of the Bill is what hon. Members have to consider whether they are in favour of the principle of the Bill and will support it by voting in favour of it. That indicates that they agree with and approve of the general principles underlying the Bill. The hon. Member's point is that although he agrees—if I understand him aright—with the principle underlying the Bill, there are certain details which he wishes to have clarified. But as far as the principles underlying the Bill are concerned, that is to say that concessions should be given to companies or trades or businesses of this generous nature in order that there should be encouragement to capital to come into the Colony and assist in its development, I take it, that that is the general consensus of opinion of the Members of this Council including the hon. Member.

On the other point as to whether a Select Committee of this Council should go into the details in the Com-

mittee stage, the hon. the Deputy President is putting to Members that the Bill be now read a second time. After it is read a second time the hon. Member can move his motion that the Bill be referred to a Select Committee.

The DEPUTY PRESIDENT: That will be a substantive motion which can be moved without notice.

Mr. FERNANDES: With your permission, will the hon. the Attorney-General give a reply to my contention that if the motion "That the Bill be now read a second time" is defeated the Bill is thrown out?

The ATTORNEY-GENERAL: The answer is that that is so far as today is concerned.

Mr. DEBIDIN: But it cannot come back until after six months.

The ATTORNEY-GENERAL: The second reading of the Bill is defeated so far as today is concerned. That is subject to the Rule on limitation as to when it can be brought back. May I add that the usual practice is for the hon. Member who is objecting to the Bill in principle to move that the place of the word "now" the words "three months" or any period hence he chooses be substituted. That is to say, if there is opposition to the principle of the Bill. But, as I have said before, if the principle is accepted then the proper procedure is to accept the principle by taking the second reading and then after that move for the appointment of a Select Committee so as to get their views on the Bill.

Dr. JAGAN: I wonder if I can make a few observations on this point principle by taking the second reading,

The DEPUTY PRESIDENT: Oh, no!

Dr. JAGAN: I did not make a speech before. I only seconded the motion.

The DEPUTY PRESIDENT: I am sorry. We must keep to our Rules. We cannot have Members jumping up every moment. The point is, we have now reached the stage when the question is being put "That the Bill be now read a second time". I cannot allow any further speech on that. It is obvious that the Mover of the motion did not exercise his right to reply to what speeches were made. Having put the question there can only be voting on it. The hon. Member will have full latitude, when the Bill is in Committee, to say anything he wishes on the several clauses. I hope hon. Members have now got the position fully. Further to what the hon. the Attorney-General has said with regard to the second reading, I may reiterate that the only way of putting an amendment—the hon. Member for Eastern Demerara said it is a substantive motion—is to move that the Bill be read this year or so many months hence. The principle of the Bill being accepted, the inflection is on the word "now", that is that the Bill be now read a second time.

Question put, and agreed to.

Bill read a second time.

Dr. JAGAN: I beg to move that further consideration of the Bill be deferred.

Mr. DEBIDIN: I second that.

The ATTORNEY-GENERAL: Before that is put, Sir, I may point out that some Members have expressed themselves as being desirous of going through the Bill and seeing on what points clarification is desired, but if further consideration is postponed we still have to come back and go through the Bill in Committee. Therefore I would suggest to hon. Member that we go through the Bill in Committee. There are several amendments, which I have circulated to Members, of a verbal nature which will have to be moved in. An explanation in clarification of this difficult subject will be given at the particular clause. It must be borne in

mind that we must have all these amendments or proposals put in the Bill itself. The amendments which have been circulated do not affect the principles of the Bill, or are of any great substance. I would ask hon. Members to let us proceed with the Bill, make what points they wish to make, and seek to obtain whatever information they like, or enlightenment, so that if there are amendments to be drafted they would be drafted. We are only delaying action so far as the Bill is concerned. I think that it would be the better course to proceed with the Bill.

Mr. DEBIDIN: May I speak on the motion? I would like to point out that if the Bill is taken to the Committee stage today it is difficult for me to even hold up this Council and read out whole clauses and put questions I have to ask on them. What I particularly would like this Council to realize is that there are some heavy schedules we would like to study with the sections, what is left out and what are the implications. If we know the implications we would know what items should be allowed to remain or should be attacked. What I would really ask is that an opportunity be given so that we may be able to ask a series of questions without having to get up each time to make a speech on each question. We do not want to do that. If a small Committee is appointed—I am thinking of the hon. Member for Georgetown Central, the hon. Nominated Member, Mr. Raatgever,—

Mr. ROTH: Is it for the hon. Member to appoint a sub-committee? That is for the Chair to do. I have never heard of that in my life.

Mr. DEBIDIN: I was not appointing anybody. I was just giving my opinion of the men who should be put on the Committee, and who would give valuable assistance. I venture to say that if this motion is not passed I am going to move that the Bill be given its third reading and not go to the Committee stage,

The DEPUTY PRESIDENT: I would ask the hon. Member to read Rule 36 where he will see that we are in Committee. It says: "*When a Bill has been read a second time, the President shall at the same or any subsequent meeting put the question that the Bill be committed, which being carried, the Council shall resolve itself into Committee to consider it clause by clause*". It has been the practice for years—since I have been in this Council—that one of the Government Members gets up and moves that the Council go into Committee after the second reading of a Bill. But that is not necessary. As the second reading has been done by the Clerk I have attempted to comply with that Rule that I have read. Automatically the Bill is in Committee and, therefore we are in Committee. But it is within the power of any Member to move that the Bill be postponed, or that consideration of the Bill clause by clause be postponed, or that a Select Committee be appointed, or any other motion he so desires. We are at the moment in Committee according to the Rule.

The FINANCIAL SECRETARY & TREASURER: I fail to understand the hon. Member's point. I sympathize with him. This Bill takes good reading. If the hon. Member has not read it, he is in very much greater difficulty than one can imagine. Even if he has read it, he is in difficulty. But in so far as a Select Committee is concerned, in my experience—I may be wrong—a select committee studies and makes recommendations to the Council on the terms of a Bill or motion. That, I understand, is not what the hon. Member intends. What he is hoping for is a class of selected Members with those who are supposed to know what this Bill means explaining what it means, so that hon. Members will be able to make speeches more informative than the ones delivered on the second reading. I do suggest that is not a necessary and appropriate proceeding for an important measure of this sort. I do suggest that a Select Committee would find itself unable to do anything more

than perhaps write more emphatic and detailed Objects and Reasons. I also wish to say this: This Colony has been waiting for this Bill for a long time, and it would be most unfair to ourselves if we allow this measure to be committed to the delays and inevitable postponements of a Select Committee. I do suggest that we must and will get on with this Bill as fast as possible.

Dr. JAGAN: May I make a suggestion? If the motion for a Select Committee is withdrawn, I think the hon. Member's suggestion might be met by adjourning the Council now, and all Members of the Council could meet informally, so that we could go over the clauses and discuss the various points, and there would be no delay in the passing of this Bill, since it is felt that an explanation should be given on the various points. That can be done without the necessity of having a Select Committee appointed, which would have to draft a report to be submitted to this Council.

Mr. LEE: The Council being in Committee, if any Member feels that a certain clause should not be adopted today he may ask the Chairman to defer consideration of that clause until later. When we are finished what we can, those clauses that are deferred can be taken on another day. The Bill is absolutely necessary to this Colony.

Mr. LUCKHOO: It seems more than a possibility that Members, or some of them have not read the Bill. May I suggest that, perhaps, it may be deferred to tomorrow for further consideration so as to give an opportunity to that Member or Members to peruse the Bill?

Mr. KENDALL: I agree with the remarks of the last speaker.

Mr. ROTH: This Bill has been published since the 24th February, and it is absurd to say that Members have not read it. If they have not, then I say they are not doing their duty towards their constituents. I suggest that we proceed with the Bill.

Mr. THOMPSON: It is said that this country is making no progress. I fear there is too much talk. We want action. In other places we find there is more action than talking. This is a very lengthy Bill. If we did not study it before, can we do so just tonight? What benefit would it serve if it is deferred after we have accepted it in principle, and we have been told that the points which are a bit technical we need not worry with as they will be explained as far as possible. We have got the main facts of the Bill. I think if we were to attempt to go through this Bill this afternoon and anything that is not sufficiently clear is deferred for further consideration, we would be doing something. Let us go right on with the Bill and do something for British Guiana.

The ATTORNEY-GENERAL: I think the general view is to proceed with the Bill.

The DEPUTY PRESIDENT: Is the hon. the Seventh Nominated Member making a motion or a suggestion?

Mr. LUCKHOO: Merely a suggestion.

The DEPUTY PRESIDENT: Do you intend it to be carried out as a motion?

Mr. LUCKHOO: No, Sir: I do not think so in the circumstances.

The DEPUTY PRESIDENT: Then that leaves one motion before the House, and that is that the Bill be referred to a Select Committee. The hon. Member for Central Demerara, I understand, desires to move that the Bill be referred to a Select Committee.

Dr. JAGAN: I subsequently withdrew that and suggested that the Council resolve itself into an informal committee and consider the Bill.

The DEPUTY PRESIDENT: The Council cannot resolve itself into an informal Committee.

Dr. JAGAN: Instead of appointing a Select Committee the Council can form itself into a Committee.

The DEPUTY PRESIDENT: If the hon. Member wants an adjournment, the point is whether he can move the adjournment.

Dr. JAGAN: I said "Adjourn the Council" first, and then I suggested that the whole Council meet as an informal Committee right now.

The DEPUTY PRESIDENT: We cannot do that. What we can do is to move the adjournment of the Council. Having done that, if it is carried, we can then ask the Council to meet informally. But the suggestion that the Council be adjourned, I understand, has been withdrawn. It is perfectly clear that, having moved the second reading of the Bill, and it having been carried, the hon. Member for Eastern Demerara, as I pointed out, was not quite in order in moving the amendment as he did. He moved an amendment that instead of the Bill being now read a second time it be referred to a Select Committee. That was the stage at which I was asked to accept it. Having done that, if the motion for the second reading is absolutely negatived and his amendment is allowed, as an amendment to that motion, it would have to be carried and, therefore, it would have to be put. Therefore the point is whether it is desired at this stage to adjourn. As we are in Committee to consider the Bill clause by clause we must either continue or refer the Bill to a Select Committee. As the hon. Member has withdrawn his motion, I take it that we have to decide to continue consideration of the Bill in Committee clause by clause.

COUNCIL IN COMMITTEE

The Council resolved itself into Committee to consider the Bill clause by clause.

Clause I—*Short Title.*

The ATTORNEY-GENERAL: I move

that in sub-clause (2) a colon be substituted for the full stop after the word "Ordinance" and the words "First Schedule" added as a marginal note.

Mr. DEBIDIN: Here is something which strikes at a long-standing principle with which we have wrestled in this Council. It is that where this Council delegates power to the Governor in Council, as is proposed in the proviso to this clause, I feel that Members of this Council ought to have some opportunity of knowing what is deleted from or added from time to time by the Governor in Council to the Schedule which we will pass at a later stage. I think that some words should be added to the proviso to the effect that whatever changes in the Schedule are made by the Governor in Council will be laid over in this Council for 21 days, to become effective if not opposed by resolution of this Council within that period.

The ATTORNEY-GENERAL: I would point out to the hon. Member that there is a similar provision in the Trinidad Income Tax (In Aid of Industry) Ordinance, No. 12 of 1950. Section 1 (2) of that Ordinance states:

"(2) This Ordinance shall, except as may be otherwise expressly provided therein, be applicable to the trades specified in the First Schedule hereto: Provided that the Governor in Council may from time to time vary the said Schedule by adding thereto any other trade."

By his comment the hon. Member is suggesting some difference in the capacity of the Governor in Council in this Colony to add to the Schedule. I appreciate that the hon. Member is trying to emphasize that nothing of this nature should be done by the Governor in Council without consultation with the Legislative Council, but I would point out that matters of this kind are not dealt with lightly or inadvisably. Not very long ago this Council passed the Post and Telegraph Ordinance in which provision was made for Regulations to be made by the Postmaster-General with the approval of the Governor in

Council. Those Regulations were laid in this Council for the required period but it was not until the period had expired that the hon. Member raised his point.

Mr. DEBIDIN: That only proves how necessary it is to have some publication for the information of Members of this Council. I would ask the hon. the Attorney-General not to beg the question any further by saying that it obtains in Trinidad, because I started off with the remark that we have been wrestling with this principle for a long time—since I have been a member of this Council, when a certain motion was sought to be passed and was passed by a majority. It seems to involve an important principle. I cannot speak for Trinidad but I know that in British Guiana we are very much aware of the fact that there is a tremendous amount of delegated authority to the Executive Council—far too much for my liking. Not that I have any suspicion that things will not be done well, but that when so much is done without the knowledge of this Council our position is really reduced to almost nothing. In matters of development we should know what is being done, and what is being introduced in the Schedule when changes are made.

The FINANCIAL SECRETARY & TREASURER: I think the hon. Member is unduly apprehensive. The hon. the Attorney-General will deal with the legal and constitutional side of the matter but I must confess to being slightly alarmed over the idea that the executive functions of this Government should be completely transferred to the Legislative Council. The hon. Member is quite right in regard to the famous motion which he opposed. I will now say that on that occasion when a series of functions under the laws of the Colony were to be transferred from the Legislative Council to the Executive Council there seemed to be a somewhat wholesale application of the principle that the mechanics of those laws must be carried out by the executive body.

The First Schedule to this Bill does not contain a list of individual businesses but descriptions of business, such as the manufacture and refining of sugar and its by-products, the distilling of rum, the working of any mine (other than a mine operated by a gold or diamond mining company), oil well, and so on. We propose to move later on the addition of rice milling to the Schedule. What is sought is to give the Governor in Council power to add to the Schedule by Order in Council which, of course, will be published. Surely that is a power which if it is desirable should be exercised by the Executive Council and not by this Council.

I want to go a little further. The most important thing of all is in clause 2 where the authority to determine what industries, if any, should be entitled to the benefit of a tax holiday period is in the hands of the Governor in Council. Is the hon. Member going to suggest when we come to clause 2, that for such determination we should come to the Legislative Council? I am suggesting now that we would be converting our legislative function into an executive function. There is a limit to that, and I seriously question this distrust of the executive body. The Legislative Council always has means of exercising its will if those functions are not properly exercised. If an Order-in-Council is published adding to the Schedule a type of industry which this Council objects to, I think Members would know exactly what to do about it. Similarly this tax holiday period, which is a most important section of the Bill, must be left to the Governor in Council. If that function is exercised irregularly I feel sure that this Council would know what to do, but surely to provide that the Governor in Council should act in these matters with the consent of the Legislative Council would make it quite inoperative.

Mr. DEBIDIN: I have been misunderstood although I said quite clearly that I did not distrust the Executive Council. I am sorry that it had to be referred to in such stern language just

now. Just as we are here approving of a Schedule of businesses we should have the power to approve of any additions to the Schedule, because if the Executive Council has unlimited power this Schedule ought not to have been before the Council. It does not mean that this Council would oppose willy-nilly any addition to the Schedule. All that is required is that it should be put before the Council for its information. There need be no fear on the part of the Executive Council that this Council would oppose its action without discretion. Unless provision is made in this Bill giving the Legislative Council the right to resolve upon any addition to the Schedule, it would have no power to do so even if additions are published in an Order-in-Council. I am therefore asking that the necessary provision be added to the proviso to clause 1.

The ATTORNEY-GENERAL: I do not wish to prolong the debate on this particular point, but I am sure that the hon. Member and all hon. Members will agree that there is a clear line of differentiation between legislative functions and executive functions. The general procedure with regard to legislation is to set out general principles in an Ordinance and leave the details to be filled in by the executive body. That principle has developed very rapidly. This Council is dealing with general principles and this Schedule sets out a list of various trades or businesses which would get the benefit of certain concessions. All that the proviso proposes is that the Governor in Council should have power to add to that list. As the hon. the Financial Secretary has pointed out, it is not a question of any particular individual or company but of adding to the list of trades or businesses from time to time.

Hon. Members will see from the list the type of trades or industries which are regarded at the moment as coming within the ambit of the provisions in the Bill, but there may arise some kind of trade or industry which we have not considered at the moment, and the Governor in Council might consider that a

certain type of trade or business should be included in the list. I suggest to hon. Members that they must rely on the good faith of the Governor in Council—that it would not do anything against the interests of the Colony in general or the trades or businesses it might wish to include in the Schedule. The hon. Member speaks with the idea that the Governor in Council performs certain functions and that there is a large curtain pulled down—that it is all sacrosanct. The Governor in Council is striving, as all hon. Members are, in the interest of the Colony, so that everybody may receive the benefit of this development or the encouragement of capital into the country.

Mr. KENDALL: Certain Member have suggested that we should carry through this Bill because we are always talking about the progress and development of British Guiana, but it is strange that those who were responsible for the preparation of the First Schedule have not thought of including certain industries of a pioneering nature which are being carried on by small men.

Mr. ROTH: To a point of order. I think the hon. Member would be in order if he brought up that subject when we are dealing with the First Schedule.

Mr. KENDALL: The clause with which we are dealing has to do with the First Schedule, and I am therefore in order. If the hon. Member wants to interrupt he must be conversant with what is taking place. I was about to say that those who were responsible for the preparation of the First Schedule did not think of certain things which can be manufactured in this Colony. Government is anxious and the Department of Agriculture is endeavouring to see that this country becomes self-sufficient in certain things. I am suggesting that canning should be inserted in the First Schedule.

Mr. ROTH: I rise to a point of correction. The hon. Member will have his opportunity to discuss such points

when we are dealing with the First Schedule.

The CHAIRMAN: The hon. Member is in order in suggesting that the First Schedule has omitted certain things. He is dealing with the clause as a whole and also with the First Schedule which is part and parcel of the clause.

Mr. KENDALL: So as not to be interrupted again I will express the hope that, with the powers to be given under this Bill to add to the First Schedule, the Governor in Council will see to it that concessions are given to certain trades which are of a pioneering nature, and which should have been before the eyes of those who prepared the Schedule.

Mr. FERNANDES: I am not going to oppose this clause because, as it has been rightly said, the Governor in Council will in any case have the right to say what particular business or industry should be exempted, and I have no objection to the Governor in Council adding any new type of business to the First Schedule. As a matter of fact if I thought that any one, two or three new industries should be added to the Schedule I would give notice of motion in this Council recommending to Government that that should be done. I however think that publication of such addition should be made as soon as possible after it is done, and I do not know whether it is necessary but I was thinking of suggesting an addition to the proviso of the words "and such addition shall be published in the "Official Gazette".

The FINANCIAL SECRETARY & TREASURER: It will be done by Order-in-Council.

Mr. FERNANDES: As long as this Council is in a position to know very early what particular industries are added I see no objection to it. If Government added an industry which I did not think would be of any benefit to the development of British Guiana I would

move a motion recommending to Government the deletion of that industry from the First Schedule. I am going to deal with the First Schedule when it is before us, and I think I would be in order in moving amendments for deletions or additions of certain items.

The FINANCIAL SECRETARY & TREASURER: We have been discussing the First Schedule, and lest there be any confusion of thought may I emphasize that it really does not come under Part I of the Bill, but relates to businesses which come under Parts II to VIII, and are thereby entitled to be concessions with regard to depreciation and so forth. These scheduled businesses are not entitled to the tax holiday period. There is no suggestion of that at all, and with regard to what the hon. Member for New Amsterdam (Mr. Kendall) has said, we of the Administration must plead guilty to having had the task of preparing this Schedule, and if we have omitted anything that should go in I would welcome suggestions in this Council. We did give some thought to the inclusion of all these things, and I am going to read them—

- "4. The manufacture of—
glass, paper, nails, screws bolts and metallic and plastic fasteners of all kinds, fertilisers, bricks, tiles and concrete blocks for building purposes, packages and crates, ice edible oils, fats, soaps and allied products, spirit compounds, bay rum and perfumed spirits, methylated spirits, furniture, matches, fibre, gas and flavouring extracts, tobacco, cigarettes and tobacco snuff."

If the hon. Member can think of a few more items he can easily submit to the Council that they should be added.

Dr. JAGAN: I quite agree with the hon. the Financial Secretary that the First Schedule has nothing to do with the tax holiday period which is provided for in Part I of the Bill. What I am concerned about is that this Bill seeks to encourage the establishment or development of industries, and I am wondering why certain industries which are

already established are included in the First Schedule. Take the first two items—the manufacture and refining of sugar and its by-products, and the distilling of rum. The sugar industry has been established in this country from the very inception of government (I was about to say good government) in this country. I am wondering why it is necessary at this time to induce the sugar industry by providing concessions which are set out in this Bill. When we were considering the Report of the Venn Commission we found that the Commission suggested that the U.K. Government should give a special subsidy to sugar produced in British Guiana because it is a high-cost producing area. If that is so shouldn't it be the policy of this Government not to further encourage the development of the sugar industry, but rather to see to it that possibly we may have some replacement of that industry over a long period of time? Why, for instance, should concessions be granted for scientific research, for patents, capital expenditure, and so on, for this particular industry which has been established here for so many years?

We know that the sugar industry has been carrying out research over a long period of time, and that a Research Centre is to be established at the Trinidad College of Tropical Agriculture. There is also a cane-breeding station in Barbados. Definitely all this is being done in order to improve yields and sugar production, and to reduce the cost of production in the long run. It is in the interest of the sugar industry to reduce its overhead expenses, increase its yields, and to produce other by-products, such as wax, boards and so forth from megass. It would also be in the interest of the Colony that those things should be done, but I do not see the necessity to give these concessions to companies which have been established in this country for a long period of time. Consequently I do not see the necessity for the inclusion of items 1 and 2 in this Schedule!

In regard to housing the sugar industry will also be included for concessions in Parts II to VIII of the Bill. In the title of the Bill reference is made to the provision of workmen's homes. I am wondering what is the definition of "workmen", because I have heard directors say that they are workmen too, and I know that in the case of directors sometimes \$25,000 to \$35,000 is spent in building one house as compared with \$1,000 or \$2,000 for a workman's house. If we are going to allow deductions by way of capital expenditure on workmen's home it must be made clear what is meant by "workmen's homes." I would like to know whether directors' houses will be included.

The FINANCIAL SECRETARY & TREASURER: There is a limit of \$4,000.

Dr. JAGAN: With respect to patents I would like to make one application which is perhaps not very applicable to British Guiana at the present time, but we have to keep these things in mind.

The CHAIRMAN: Surely the hon. Member can wait until we reach that clause. I have allowed the hon. Member a little latitude. It must be appreciated that while we are considering the clause as it stands with the subsequent few amendments, we still have to put the Schedule. The remarks which the hon. Member has addressed are properly on the Schedule. Can he wait until we come to the Schedule? Surely I must at this stage rule them as being irrelevant. We must try to observe the Rules, otherwise we will find ourselves in such an awkward position that in the long run we will get in the complex stage of abysmal ignorance of the Rules and Regulations and treat the whole thing as a second reading. As the hon. Member for New Amsterdam did, I would suggest to hon. Members that as some of the remarks made are on the First Schedule to wait

until such time as the First Schedule clause is put. It does seem to me to be the more preferable and orderly way of proceeding.

The FINANCIAL SECRETARY & TREASURER: I myself may have transgressed in that matter. The custom was to take the Schedule to a clause before taking the clause itself. As regards the remarks just made by the hon. Member for Central Demerara, which I hope this Council will not accept, while he was speaking I was reminded of a famous book "Gulliver's Travels", that particular part of it which referred to this fact—"he who makes two blades of grass grow where one grew before, or two ears of corn come forth where only one came forth before is worth more than the whole band of politicians put together". That is well known. Scientific investigation and research even for the sugar industry is essential, and to suggest that it is undesirable, or that the concession granted by the inclusion of sugar in this Bill is unnecessary, because it is already an established industry, is quite wrong. No industry is so established that it cannot be improved. What we have to do for sugar is to get two bags more out of each acre than before. If that happens the industry would profit, and it is equally true that everybody, including the workers, would profit. It is most desirable that sugar should remain in the Schedule so that it can become entitled to those concessions which are applicable to things like scientific research and patents. It is essential.

The CHAIRMAN: I hope the hon. Member for Central Demerara does not think that I suggest he should not discuss the First Schedule. What I am trying to point out is that it is advisable to wait until the Schedule is put, because of the Rule with regard to reiteration or repetition. In other words, if the hon. Member deals with the Schedule now, obviously when we come to the Schedule itself there is the danger of repeating exactly what was said

when the clause itself was being dealt with. That is the point I want to make. It is not that the hon. Member cannot deal with the Schedule, because it is part of the clause, but there is reason, as I suggest, that the hon. Member should await the time when the Schedule is actually being put, because of the danger of repetition. You can expound more when it is under consideration than under a general issue.

Mr. DEBIDIN: May I properly close on this particular point which has been raised? I want to say again that if the Executive Council has all that faith in its own integrity, a faith which we have, what is the fear of putting what they have done in writing and laying it over to this Council with the condition that we have the right to oppose or not? That seems to strike the point made by the hon. the Attorney-General. I want to make this other point. When I raised this point I was fully consistent with what I raised on another occasion, when I asked that the publication of what was going to be done under that Bill be placed before this Council in the form of a report, and some assurance was given. I am only trying to seek some provision whereby those of us who are not Members of the Executive Council would have not only the information but action on the information, by having the right to move a motion on what has been done before it is too late.

The hon. Member for Central Demerara made a good point, but at the same time I would like to point out a slight weakness in what he said. If he can move a motion, what he has to consider is that it would take some time to realise what has been done by the Executive Council, and when he does move his motion it would take some time before it is discussed. So when you have the usual provision everything has to be done within 21 days, just as I did when the Post and Telegraph Orders were made, and I wanted them gone into again. That is the strength of this contention, not only the publication but action on the publication, by a provision

which would demand that the Executive Council publish their orders, and for 21 days they are laid over, and if within those 21 days they are not opposed they become law. That is the safeguard and the confidence we should show by not opposing them. There is no harm in adding the usual clause providing that it be laid over for 21 days for the approval of this Council.

The ATTORNEY-GENERAL: I think the hon. Member for Central Demerara has rightly anticipated or answered the point made by the hon. Member who has just taken his seat. The whole thing is covered. When the order is published hon. Members would be aware of it, and, if the trade or business which is to be added to the Schedule is one to be objected to, hon. Members are fully appreciative of their right to do so by way of a motion. The hon. Member for Eastern Demerara, when this question of the order made under the Post and Telegraph Ordinance was before this Council, dealt with it in the form of a motion. That is the proper procedure. It is not necessary to put that here. Similarly, if there are any trades or businesses which hon. Members consider should be introduced into the Schedule then a motion could similarly be moved. That is within the right of hon. Members of this Council.

Mr. DEBIDIN: May I just inform the hon. the Attorney-General that if this provision is not there and an item is passed by the Executive Council, before a motion can be moved that new industry may bring down \$2 million worth of machinery. Do you think anyone would pass a motion to counteract such a tremendous undertaking—something the Executive Council had done or performed? It is to avoid serious consequences like that occurring that we want immediate action. When I moved that motion in respect of the Post and Telegraph Regulations it was after 21 days, and so if 21 days are not allowed we would not have action quickly.

I did not want to give this example

before, but the hon. the Financial Secretary and Treasurer referred to rice mill. I want to tell him that that will be opposed very bitterly because there is to be a clear demarcation between any milling which will be done by the C.D.C., who will operate independently of the Rice Marketing Board and will have all the privileges to sell to any place and get larger prices than the Board will. That is why we feel that this particular amendment I am moving is important. We must have an opportunity of debating whether it is right for them to make profits under Part II to VII of this Bill. You may have a company introduced with the right to wipe out all sawmills without any compensation. We must be fully aware of the conditions under which they are coming to operate before they are given the concessions. It is a very important issue on a very important matter, if Members would only for a moment pause and realize what is being asked for. What the Governor in Council is going to add to this Schedule should be laid over in this Council so that within 21 days Members would have an opportunity of attacking it.

Mr. FERNANDES: I did not want to say anything more, but the hon. Member seems to forget that he had a motion for the abolition of the Rice Marketing Board.

Mr. DEBIDIN: To a point of correction! It is completely begging the question. Whether I have such a motion or not, I am using something else as argument here. If the Rice Marketing Board is abolished, the same argument takes place. The hon. Member must not misconstrue what I am saying.

Mr. FERNANDES: I am satisfied now from the hon. Member's last remarks that he is not looking for that motion to succeed. I can assure the hon. Member that I will not give the Governor in Council the opportunity to add rice mills, because I intend when we get

to that Schedule to move that that item be added and so let this Council decide it.

The ATTORNEY-GENERAL : I said I will be moving it.

Mr. FERNANDES: I am sorry. I did not hear that. I can assure hon. Members that I had it marked down here so that there would be no chance, if the hon. the Attorney-General was not moving it, of it slipping us.

The amendments by the Attorney-General put, and agreed to.

The CHAIRMAN: Is the hon. Member for Eastern Demerara ready with his amendment to the proviso?

Mr. DEBIDIN: Yes, sir.

The CHAIRMAN: What is the exact amendment?

Mr. DEBIDIN: I am moving that the words, "subject to such order being laid over in the Legislative Council, and if no resolution thereon is moved by the Legislative Council, the said order shall become operative" be inserted at the end of the proviso.

The ATTORNEY-GENERAL: I think hon. Members know what the hon. Member means, but that cannot be inserted.

Mr. DEBIDIN: I would be glad if the hon. the Attorney-General would shape that and include that it should be laid for a period of 21 days.

Mr. FERNANDES: The question is going to arise as to whether at this stage we can slip in an amendment to change what is to happen to an Order in Council.

Mr. DEBIDIN: There is provision in every Ordinance for that to be done.

The CHAIRMAN: Is the hon. Member pursuing this amendment?

Mr. DEBIDIN: Yes, subject to its being approved.

The CHAIRMAN: Why I ask that is because we have to follow the Rules carefully. It is a question of second reading. The hon. Member for Eastern Demerara is right up to this point. When the second reading is thrown out the Bill is thrown out. But there are instances, as in this case, where an amendment to continue the second reading and refer the Bill to a Select Committee can be permitted. That is done, however, in a different form and not as suggested by the hon. Member. When we get these amendments suggesting that, we must get them carefully done otherwise we would have Members getting it into their heads to suggest—I do not know what amendments. I would suggest to the hon. Member to ask that the proviso be not passed, and that consideration of it be deferred so as to give him time to draft a proper amendment.

Mr. DEBIDIN: I am suggesting that we take the adjournment now.

The CHAIRMAN: The reason why I suggest that is, if hon. Members vote against that, it is obvious from the feeling of the Council that they do not intend to amend it. The hon. Member would in that way obtain the feeling of the Council as to whether they are in accord to amend or not. It seems useless as, if there is not a majority in accord with, the amendment would be thrown out.

The ATTORNEY-GENERAL: Sir, will you be good enough to put the proviso? As you have said, if hon. Members approve of the proviso as drafted it would stand, and if they think it should be altered I would do the draft afterwards. I beg to move that the proviso stand as part of the Bill.

Mr. RAATGEVER seconded.

Mr. DEBIDIN: I cannot accept

that. There will be no record of my amendment. I am asking for an opportunity to draft it properly with all the elements in it. I would like a definite motion to be put by me so that it can be recorded.

The ATTORNEY-GENERAL: May I suggest that the hon. Member's motion as it stands may be put. If it is voted against and the clause as now drafted stands, then his motion with regard to the amendment falls. If on the other hand his motion is accepted, so far as the draft is concerned, then it can be subsequently recommitted for the purpose of improvement.

Mr. DEBIDIN: I think the Council knows the spirit of my amendment.

The CHAIRMAN: Does the hon. Member intend to pursue this particular amendment?

Mr. DEBIDIN: I would like to be inserted in the amendment the words "within 21 days" after the word "approved".

Amendment put, and the Committee divided and voted as follows:—

For:—Messrs. Phang, Peters, Kendall, Debidin, Ferreira, Lee, Dr. Jagan and Dr. Singh—8.

Against—Messrs. Luckhoo, Morrish, Carter, Smellie, Fernandes, Farnum, Thompson, Roth, Raatgever, Capt. Coghlan, the Financial Secretary and Treasurer, the Attorney General and the Colonial Secretary—13.

Amendment lost.

Proviso as printed put, and agreed to.

Clause 1 as amended put, and agreed to.

Dr. JAGAN: I beg to move an adjournment.

The Council resumed, and adjourned to 2 p.m. the following day.