SECOND LEGISLATIVE COUNCIL

(Constituted under the British Guiana (Constitution) (Temporary Provisions) Orders in Council, 1953 and 1956).

Friday, 12th February, 1960

The Council met at 2 p.m.

PRESENT :

Speaker, His Honour Sir Donald Jackson
Chief Secretary, Hon. D. M. Hedges
Attorney-General, Hon. A. M. I. Austin, Q.C.
Financial Secretary, Hon. F. W. Essex, C.M.G.
ex officio

The Honourable	**Dr. C. B. Jagan**	—*Member for Eastern Berbice* (Minister of Trade and Industry)
	B. H. Benn	—*Member for Essequibo River* (Minister of Natural Resources)
„ „	**Janet Jagan**	—*Member for Western Essequibo* (Minister of Labour, Health and Housing)
	Ram Karran	—*Member for Demerara-Essequibo* (Minister of Communications and Works)
„	**B. S. Rai**	—*Member for Central Demerara* (Minister of Community Development and Education).
Mr.	**R. B. Gajraj**	—*Nominated Member*
„	**W. O. R. Kendall**	—*Member for New Amsterdam*
„	**R. C. Tello**	—*Nominated Member*
„	**F. Bowman**	—*Member for Demerara River*
	L. F. S. Burnham	—*Member for Georgetown Central*
„	**S. Campbell**	—*Member for North Western District*
„	**A. L. Jackson**	—*Member for Georgetown North*
„	**S. M. Saffee**	—*Member for Western Berbice*
„	**Ajodha Singh**	—*Member for Berbice River*
„	**Jai Narine Singh**	—*Member for Georgetown South*
	R. E. Davis	—*Nominated Member*
„	**H. J. M. Hubbard**	—*Nominated Member*
„	**A. G. Tasker, O.B.E.**	—*Nominated Member.*

Mr. I. Crum Ewing — Clerk of the Legislature
Mr. E. V. Viapree — Assistant Clerk of the Legislature.

ABSENT

Mr. E. B. Beharry — Member for Eastern Demerara
Mr. A. M. Fredericks — Nominated Member — excused.

The Clerk read prayers.

MINUTES

The Minutes of the meeting of the Council held on Thursday, 11th February, 1960, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENTS

Mr. Speaker: I have to announce that the hon. Nominated Member, Mr. Fredericks, has asked leave to be absent from today's meeting.

ORDER OF THE DAY

PUBLIC LOAN ORDINANCE

Mr. Speaker: The Financial Secretary will move the Second Reading of the Bill intituled

> "An Ordinance to confer power to raise by loan or loans a sum not exceeding seventy-one million, eight hundred thousand dollars, and for matters connected therewith."

The Financial Secretary (Mr. Essex): This Bill is a very straight-forward one. As Members would remember, the loan element which was expected to be necessary to carry out the 1960-64 Development Programme was $71.8 million. That is the residual amount after taking into account free grants under the Colonial Development and Welfare Act and the contributions which were expected from revenue.

To raise this money, it is necessary to have legislation such as this Bill proposes. It is in the usual form except for one part to which I will refer. It enables borrowing in London through the Crown Agents, which is normal; it enables borrowing locally; it enables borrowing under the Exchequer Loan arrangement; and it enables borrowing from any other source which is authorized by any other legislation or by Resolution of this Council. One of the other sources, of course, might be the World Bank, and for the World Bank borrowing we shall be introducing separate and special legislation.

As I said, this Bill is in the usual form for borrowing for the Development Programme except for two sections which are necessary for the special nature of the Exchequer Loan borrowing. They are necessary for the purposes of the United Kingdom Act under which Exchequer Loans are made. That explains the insertion of Clause 4 (c) which speaks of loans made by the Secretary of State with the approval of Her Majesty's Treasury under the provisions of Section 2 of the Colonial Development and Welfare Act, 1959, that is, an Exchequer Loan.

Then Clause 5 (1) points out that any moneys obtained by a loan raised under that Clause — that is moneys raised by an Exchequer loan — shall only be applied for such purposes as the Secretary of State may agree to. This is necessary because of the United Kingdom Act under which that provision is made.

Clause 5 (2) is not usual but, again, is necessary because our General Loan Stock Ordinance prescribes that a sinking fund shall be formed for the purpose of repaying loans whereas an Exchequer loan is not repaid by sinking fund, but by special annuities consisting of interest and capital. Therefore, it is necessary to put in Clause 5 (2) so as to enable us to pay back the loan in that way. I now beg to move that the Bill be read a Second time.

The Attorney-General (Mr. Austin): I beg to second the Motion.

[*Pause*]

Mr. Speaker: If no one wishes to speak, I shall put the Question.

Question put, and agreed to.

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

COUNCIL IN COMMITTEE

Clauses 1 to 3 passed as printed.

Clause 4. *Method of raising loan.*

Mr. Bowman: While I am in full agreement that this Colony needs money for its development and, according to the arrangement and suggestions made by Mr. Berrill, it was agreed that $71.8 million must be borrowed, I want to make this point. I have made it already. I am one of those who do not believe that this money is going to be spent properly.

The Chairman: What is it you want to move?

Mr. Bowman: It is not a Motion. I am saying that I am one of those who do not believe that this money is going to be spent properly.

The Chairman: That should have been discussed at the Second Reading of the Bill.

Mr. Bowman: I did not know that the Second Reading would have been taken so rapidly.

The Chairman: I deliberately said, after I had waited for a while, that if no one wished to speak on the Bill, I would put the Question. I waited, no one spoke and I got up and put the Question. Even when I rose, if you wanted to speak on the general principle of the Bill you could have done so. You had enough time to do so.

Mr. Bowman: I had misplaced the Bill, and while searching for it I did not hear the Question put.

The Chairman: I cannot help that. I have done nothing in secret.

Mr. Bowman: Very well, Sir, if I cannot speak—

The Chairman: If you want to move its deletion you can do so, or you can—

Mr. Bowman: I move that it be deleted.

The Chairman: You cannot sit and do that.

Mr. Bowman [*rising*]: I am moving that it be deleted. While we were debating the Development Budget, unfortunately—

The Chairman: You are speaking on Clause 4, which reads:

> "4. The loans hereby authorised, or any part of them, may be raised in the following ways—
>
> (a) in London by the Crown Agents under the provisions of the General Loan and Stock Ordinance; or
>
> (b) in the Colony under the provisions of the General Local Loan Ordinance; or
>
> (c) by means of loans made by the Secretary of State with the approval of Her Majesty's Treasury under the provisions of section 2 of the Colonial Development and Welfare Act, 1959; or
>
> (d) by means of loans authorised by any other Ordinance or by resolution of the Legislative Council, as the Governor, or the Crown Agents acting on the Governor's behalf, may decide."

Your Motion is that all this be deleted. Very well.

Mr. Bowman: I was making the point that when the Development Budget was being discussed I had toothache and could not say what I had in mind to say. I now take this opportunity to make my point. While we are all aware that this Colony needs money for its development, and I agree that money must be borrowed, I am not convinced that such money will be spent in the best interest of the country.

The Chairman: You are entirely out of order. This Clause deals with the method of raising loans. Your point does not come anywhere near this Clause. It is irrelevant to the particular Clause, and you have to speak with due relevance to it. If you were not here at a certain time, that is your misfortune. I rule you out of order. You must speak in relation to the particular Clause. If you did not find your papers before, that is your misfortune.

Mr. Bowman: We are now discussing the question of borrowing money.

The Chairman: I have already ruled you out of order because you referred to something which is irrelevant to the Clause which I have read to you.

Mr. Bowman: I can read it.

The Chairman: I hope so. If you can read you should appreciate the meaning of it. If your Motion is to strike it out, it is in order, but your remarks must be relevant to the Clause itself. I cannot give you a roving commission.

Mr. Bowman: Will you allow me to make my point?

The Chairman: If you are going to make a point on the Clause.

Mr. Bowman: I wish to make a point on the Clause.

The Chairman: If it is irrelevant I shall have to stop you.

Mr. Bowman: Paragraphs (a), (b), (c) and (d) of this Clause state the sources from which money may be borrowed. What I am saying is that I am in full agreement with the borrowing of money, but I do not believe that when this money is borrowed it is going to be spent properly.

The Chairman: That does not trench on this Clause at all.

Mr. Bowman: I will get my chance. I will take my seat.

The Chairman: Do you wish your Motion put?

Mr. Bowman: No, Sir.

The Chairman: Does any other Member desire to speak on the Clause? I hope I speak loudly enough for Members to hear. The question is that Clause 4 shall stand part of the Bill.

Agreed to.

Clause 4 passed as printed.

Clauses 5 to 7 passed as printed.

Council resumed.

The Financial Secretary: I beg to report that the Public Loan Bill has passed the Committee stage without amendment. I therefore beg to move that the Bill, as printed, be read the Third time.

Agreed to.

Bill read the Third time and passed.

BRITISH GUIANA RICE PRODUCERS ASSOCIATION (AMENDMENT) BILL

Mr. Speaker: Council will now resume consideration of the Bill intituled:

"An Ordinance to amend the British Guiana Rice Producers Association Ordinance."

The Minister of Natural Resources (Mr. Benn): I move that Council resolve itself into Committee to resume consideration of the Bill.

Agreed to.

COUNCIL IN COMMITTEE

The Attorney-General: It appears to me that my Amendment to Clause 4 is before the Committee. There have been two Amendments to my Amendment, both of which have been defeated. My Amendment therefore stands. I do not know whether any Member wishes to say anything more about it.

The Chairman: Is that a ruling?

The Attorney-General: No, Sir. I am saying that from the Minutes it appears as though my Amendment is before the Committee.

The Chairman: Yes, we are resuming in Committee. Yesterday, when I was about to put the question the hon. Nominated Member, Mr. Davis, moved an Amendment which he ultimately withdrew. That was an Amendment to Clause 9. The effect of what is stated in the list of Amendments is that subsections (8) and (9) in the printed Bill are not being proceeded with.

What you are repealing would be (8) and (9) of the Principal Ordinance; and if you do that, subsection (10) in the Principal Ordinance remains, and your (8) and (9) will take the place of (8) and (9) in the Principal Ordinance. But there is yet subsection (10) in the Principal Ordinance, and you ask why is it you have another (10) here? And you are quite correct; for that other (10) should not be there, and therefore we shall make it (11). In effect we have added one more. Is that clear? I understand the hon. Member for Demerara River wants to move an amendment. He may do so now.

Mr. Bowman: When the adjournment was taken yesterday, I was making the point that it seemed to me that there was a conflict of intention.

The Chairman: If I may interrupt you, you said you were going to make an amendment.

Mr. Bowman: It is that word "appoint", which appears in subsection (9), in the first line, as set out in Clause 4. It should be deleted and the word "elect" put in its place.

The Chairman: In that case, it would read:

> "(9) The Council may elect some fit and proper person to be General Secretary of the Association and such other officers and servants of the Association as may be necessary, and may pay any person so appointed such remuneration out of the funds of the Association as the Council considers adequate, and may dismiss any such person."

Mr. Bowman: Yes, I was making the point that there seems to be some conflict in the Objects and Reasons of this Bill. On the one hand it is outlined that Government wants to take away the power vested in the Governor to make appointments to the B.G. Rice Marketing Board and give that power to the Minister. I say there is conflict because of what was said yesterday by one of the supporters of the Government. It will be remembered that the hon. Nominated Member, Mr. Gajraj, said that we are now getting away from appointments and nominations. I am one who, in the past, has criticized nominations and appointments. If the object is to get away from appointments and nominations, I do not see why Government should insist that the Governor should appoint the General Secretary. If we are getting away from something, let us get away from it completely, and not in a half-hearted way. One can see from what is happening today the pattern of things to come. A Minister with a political axe to grind would not think it too much to appoint people who he knows are thinking just like himself and those around him. In this respect I am thinking of other Governments, because the present Government is not going to be in office all the time.

I think such appointments should be made by a Committee or a Board, and it should not be left to one man or to the fancies of the political party to which he belongs.

An attempt is being made to isolate the landlords and the millers. This is a classic example of the tactics applied by this Party to bring about racial disharmony. "Isolate them, and let us cater for the majority". That has always been the object of this Party. Personally I have quarrelled with them several times.

The Chairman: Do not go into a personal quarrel.

Mr. Bowman: This measure is bad. This is an integrated industry. If you separate one section from another, you

[MR. BOWMAN]

will see the industry falling to pieces, and this is an industry which comprises, mostly, of one race of people. Why try to separate them? Why try to make their feelings worse than they are today? I am sorry that this Government is acting in this way. It is clear for all Guianese to see, and I am warning this Government to stop trying to do this thing because it will cause trouble.

Mr. Benn: I do not know if the hon. Member is mistaken, but the General Secretary of the Rice Producers Association is a paid official. He is employed, and what the Bill seeks to do here is to say that the Council, which is supposed to run the affairs of the Rice Producers Association, will appoint a permanent official, like a Permanent Secretary in a Ministry.

The General Secretary of the Rice Producers Association does not contest a seat. He is a person who will be appointed to carry on the functions of the Association. Council will come and Council will go but it is expected that the General Secretary of the Association will continue until he goes out of office by some means other than by election. I hope the hon. Member appreciates the point and not suggest that there is any ulterior motive on the part of the Government in having a permanent official of the Rice Producers Association appointed by the Council which has been elected by the people, who are producers in the industry.

Mr. Bowman: I quite understand, but the point I am making is: in spite of the fact that he will be a permanent officer, yet he can be elected. Let the Council elect one out of a panel whom they believe will be capable of carrying on. I can see that there will be nepotism in such an appointment. Let them elect, and elect the best man.

Mr. Benn: If the Council of the Rice Producers Association wants a Secretary for the Association, the Council will advertise for a person to fill that post, and seven, eight, nine or 100 persons will apply. Their names will be listed and one or two names will be put before the Council and the Council will vote for the person.

Mr. Tasker: I do not want to delay Council, but I was wondering if the mover of the Amendment can seek clarification of the hon. the Attorney-General of the word "remuneration" which appears in Clause 4, sub-paragraph 9. It is my understanding that in the past, some statutory organizations have had the difficulty of defining their powers over, specifically, leave terms for officials of those bodies, unless some statutory instrument gave them permission.

Why I raise it is: if the Rice Producers Association at some future date elected, for a period of long leave, to provide passage assistance to the islands or farther afield for the General Secretary, I wonder whether the use of the word "remuneration" will cover this power; if not, I suggest he should have an Amendment to do so. I raise it because there has been other cases where statutory bodies have had the difficulty in trying to offer suitable conditions of employment.

The Attorney-General: The Clause is intended to bear this interpretation because, to the minds of most people, "remuneration" is another word for "pay" and "allowance", and the object of the Clause is to enable the funds of the Association to be used, in part, for paying its officers and servants. Whether or not it will make arrangement for them to go on leave and to have passage money and so on, I do not know, but I do not think that this Clause would extend to providing passage money. This Clause allows the General Secretary leave and, of course, to pay him during his leave, but not to pay his passage money. That, I believe, would be a separate matter for the Association.

Mr. Davis: This is the same phraseology that is being used, at the moment, in the Principal Ordinance, and it is my knowledge that officers have used just this phraseology to go even abroad and have been paid allowances as has been suggested by the hon. Nominated Member, Mr. Tasker.

The Attorney-General: I did not say, of course, that they cannot be paid. It may well be that the authority for paying them comes under a different provision.

The Chairman: The Question is, that the word "appoint" in the first line of subsection 9 be replaced by the word "elect"; and also that the word "appointed" in the fourth line be replaced by the word "elected".

Amendments negatived.

The Chairman: I therefore put the whole Clause as is recommended in the List of Amendments. I have explained what the Clause is already.

Question put, and agreed to.

Clause 5 passed as printed.

Clause 6. *Amendments of section 6 of Chapter 250.*

The Attorney-General: I beg to move an Amendment to Clause 6—that the new subsection (3) in the Amendment sheet be substituted for subsection (3) in inverted commas as printed; that is to say, subsection (3) should read:

> "(3) The management of the affairs of a District Association shall be vested in a Committee consisting of seven members being —
>
> (a) a Chairman;
>
> (b) a Vice-Chairman; and
>
> (c) five other members of the District Association."

Mr. Davis: I am not against this Amendment, but I rise to point out that, in the past, provision was made for a Secretary to this Committee. It is also true that the District Clerks have had, on occasions, to act as Secretaries to these Committees. Either there is no provision for a Secretary or, is it stated here that the District Secretaries of Associations would be in attendance to, or would, act as Clerks to these Associations? Because we can well wake up one day and find that these sub-Committees as such, have no one to record their proceedings and to write their deliberations.

Mr. Benn: It has been the custom, even though a Secretary to a District Association was provided in the Ordinance, for the Clerk to do most of the work; and it is intended that a District Clerk, who is now going to be described as a Field Representative and whose duties will be found in the Regulations which are to be made, will perform the duties of Clerk to the Committee and that he will not be a member of the District Committee.

The original Amendment to the Ordinance had made arrangement for the Field Representative, who was called a District Clerk, to be a member of this Committee. Now, a Field Representative is not an elected person, so we are proposing to strike that out and these persons will be Clerks to the Associations; and a person from a District Committee will not be elected as Secretary because it has been found that the secretarial duties of the District Association were, more or less, carried on by these Clerks.

Mr. Davis: I am satisfied with the explanation. I was not objecting to the Clause but, having served on one of these Committees, I thought it my duty to point out what I thought was an omission. But if the Minister says that Government intends to cover it up by subsequent Regulations, that meets the case.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clauses 7 and 8 passed as printed.

Mr. Davis: May I, Sir, refer to Clause 7 to say that there is no definition of "Field Representative".

The Chairman: You will have to ask that the Clause be re-committed. I cannot understand. I cannot wait for five or ten minutes for somebody to speak. I wait a reasonable time.

Mr. Davis: That is appreciated, Sir.

The Chairman: Let us get on and we can come back to it.

Clause 9. *Transitional provisions.*

The Attorney-General: I move that Clause 9, as printed, be deleted and the new Clause, as typed, be substituted, except that the dates 31st March, 1960, and 30th April, 1960, be deleted and replaced respectively by the words "30th April, 1960" and "31st May, 1960." The object of this is that the Ordinance which was passed last year under the title of the Rice Producers Association (Special Provisions) Ordinance, 1959, to stay the elections to the District Associations and to the Council of the Rice Producers Association, provided that the new elections to District Associations should be held before the 15th February, 1960, by which time it was hoped that this legislation would have been through. But it has not been possible to pass the legislation in time, and in order to give adequate time for elections to be arranged and held, it is now necessary to put back the time of the elections to District Associations to the 30th April, 1960, instead of the 15th March—nearly 2½ months — and for the elections to the Council of the Rice Producers Association to be put back from the 15th March to the 31st May, 1960.

The easiest way to provide for this purely mechanical alteration is to delete Clause 9, as printed, and substitute for it a new Clause 9, and then to add a new Clause 10. Therefore the Amendment I propose is the deletion of Clause 9, as printed, and the substitution of this very much shorter Clause 9, subject to the dates I have referred to:

> "9. The British Guiana Rice Producers Association (Special Provisions) Ordinance, 1959, is hereby amended by the substitution for the words "15th February, 1960" and "15th March, 1960" wherever they occur, of the words "30th April, 1960" and "31st May, 1960" respectively."

Amendment agreed to.

Clause 9 as amended, agreed to.

Clause 7. *Amendment of Section 8 of Chapter 250.*

Mr. Davis: I wanted to point out that there is no provision in this Bill for a definition of "Field Representative", and I was wondering if it was necessary.

The Attorney-General: A Field Representative, spelt with a capital "F" and "R", is an officer of the Association who will be recognized, and I feel that a definition is not really necessary. I think it would be perfectly clear to whom one is referring when you are dealing with an officer of the Rice Producers Association who is called Field Representative. We do not define all offices, and I think it is clear enough.

Mr. Davis: I accept what the Attorney-General says, but it is quite new to call the officer a Field Representative when in the past he was just the Clerk.

Mr. Jackson: With the deletion there is nothing to bring that about.

The Chairman: I understood the Minister of Natural Resources to say that provision will be made in the Regulations.

Mr. Jackson: Not for his appointment but for his duties. I think provision for his appointment should be made in the Bill.

Mr. Benn: A Field Representative will be one of the officers appointed under Clause 9. There is no definition

of Field Representative, but there is also no definition of Secretary, and one or two of the other officers. I think the Attorney-General is more competent to advise on whether there is necessity for a definition of Field Representative.

Mr. Jackson: I am not talking about a definition, but about provision for his appointment. If the Minister says there is provision in Clause 9 I accept that.

Mr. Davis: The duties of the General Secretary of the Association are set out in Regulation 19. Is it proposed that the Field Representative should do just that work? There is nothing to show what will be the duties of the Field Representative.

Mr. Benn: New Regulations are to be made after this Bill is passed, and the Field Representative will take the place of the General Secretary.

New Clause 10.—*Transitional.*

The Attorney-General: I move the insertion of a new Clause 10 in the terms printed on the copy circulated, subject to the substitution of the 30th April, 1960 for the 31st March, 1960. The object is that the appointment of members of the Rice Marketing Board from the Rice Producers Association, which in future will be made by the Minister, will not take effect until after the date of the new elections, so that this whole change in the arrangements will come into force on the same date. The new Clause 10 will therefore read:

> "10. Section 3 of this Ordinance shall not come into operation until the 30th April, 1960."

Question put, and agreed to.

New Clause 10 agreed to.

Council resumed.

Mr. Benn: I beg to report that the British Guiana Rice Producers Association (Amendment) Bill, 1960, has passed through Committee stage with amendments, and I move that the Bill be read the Third time.

Mrs. Jagan: I beg to second the Motion.

Question put, and agreed to.

Bill read the Third time, and passed.

WORKMEN'S COMPENSATION (AMENDMENT) BILL

Mr. Speaker: The next item, standing in the name of the hon. Minister of Labour, Health and Housing, is the Second Reading of the Bill intituled

> "An Ordinance to amend the Workmen's Compensation Ordinance".

The Minister of Labour, Health and Housing (Mrs. Jagan): In moving the Second Reading of this Bill I would mention that on the 28th of November, 1958, I placed before this Council the Report of the Workmen's Compensation Advisory Committee, and no doubt Members have gone through the Report carefully. This Committee was appointed by the Governor in Council on the 19th of October, 1957—soon after I became Minister of Labour, Health and Housing —and its Terms of Reference were: "To examine Section 2(1) (a) and Section 8 of the Workmen's Compensation Ordinance, Chapter 111, and to make such recommendations as it may deem fit." The Chairman was the Commissioner of Labour; independent members — Mr. John Durey, M.B.E., Dr. B. B. G. Nehaul, Mr. C. Lloyd Luckhoo, Q.C., and Mr. J. H. McB. Moore; representing the B.G. Sugar Producers' Association— Dr. G. D. Giglioli, O.B.E.; representing the M.P.C.A.—Mr. D. P. Sankar; and representing the B.G. Trades Union Council — Mr. A. G. Perry and Mr. A. McLean. The recommendations of the Committee, as set out in its Report, are sought to be implemented in this proposed legislation before us today, with one variation which I will explain to Members.

Members may ask, quite rightly, why this Report took so long to be implemented or to reach this Council. I my-

[MRS. JAGAN]

self was very disturbed on a number of occasions over the delay in completing all the necessary work to bring the recommendations up to this stage, but there was in fact a great deal of preparatory duties to perform, such as examining the recommendations, having discussions with the T.U.C., the Ministry of Labour, officials of the Labour Department, the Attorney-General and other members of the Law Officers Department.

Coming to the recommendations of the Committee, the first I want to mention is that which revised upward the figure, from $1,800 to $2,700, as the maximum income for a person receiving compensation. In other words, the Committee felt that with rising wages and various monetary changes since the Workmen's Compensation Ordinance was put into effect, it was necessary to widen the income range for those persons who would be able to receive compensation under the Ordinance. So that in this Bill an amendment is sought to subsection (1) of Section 2 of the Principal Ordinance to give effect to this maximum.

The Committee also recommended that workmen's compensation should cover all manual workers without any restriction on incomes, and Members will note that in the Bill before the Council there is the deletion of the Section which prescribes a maximum for manual workers in the Principal Ordinance. The Committee recommended that on the understanding that any person who does work of a manual nature is more liable to accident than, say, a secretarial worker. In other words, a man on a job, if he is highly skilled and who is earning $300 or $400 per month, should be covered and need not be confined to the wage limit of $2,700 a year. There are, however, specialized workmen who have high incomes and who would be out of the range; but this does not alter the fact that they may have an accident at any time — a far greater possibility than it is with white collar workers.

There are minor amendments, such as that dealing with the definition of "a year". There had been difficulty about this and the Committee recommended that "a year" should be a period of 12 months immediately preceding the date of the accident. Members of the Committee, however, recommended that there should be an increase of 50% on all figures relating to money in Section 8(1) of the Principal Ordinance. Therefore Members will find in Clause 3 of the Bill that subsection (1) of Section 8 is to have various amendments, which include the substitution of $2,700 for $1,800 and $5,400 for $3,600, to give effect to this increase.

One of the most controversial aspects of the Committee's Report was Recommendation 7. Members will recall that under the existing Ordinance if a worker is to receive compensation for the first three days of his accident he must be incapacitated or ill for a period of 12 days. The Committee recommended that this should be altered to provide that if the incapacity lasts less than 10 days no compensation shall be payable in respect of the first three days. It will be observed that I have not accepted this recommendation — the only one, by the way — and this Bill asks that where the incapacity lasts three days the worker shall be paid for those three days of incapacity. No doubt there will be some discussion on this point and I do anticipate that one or two Members will raise it.

In my discussions with the T.U.C., I asked them why it was that their two representatives on the Committee supported the majority report asking that where the incapacity lasts less than 10 days no compensation with respect to the first three days shall be paid. I added that I was aware that at public meetings and demonstrations the T.U.C. had passed resolutions asking that this 12-day period be reduced to three. I could not understand their change of views. Eventually they agreed to support me in whatever action I took —

either agreeing to the Majority report or agreeing to the removal of the waiting period. They wrote the Ministry of Labour to that effect. So I am anticipating that the T.U.C. would support this Amendment, which in fact carries us back to what was accepted in 1934 but was subsequently changed, at what I feel was a disadvantage to the workers.

I have known of cases where workers suffered real injury and were incapacitated not necessarily 10 days but, say, seven days, and they received no compensation for the first three days of that period of seven days because the law stated that they had to be incapacitated for a period of 12 days before they could receive compensation for the first three days.

The employers have used the argument that if there is no period of waiting, there will be malingering on the job; that the workers who may not really be seriously injured but may have a strain of some sort, which is not so easy to diagnose, may hold out a little longer. But they claim that the 12-day period makes it difficult for them to do so, except they are really injured, for such a long period.

I know that in one or two industries the management claim that the workers are always using the excuse of back injuries, and they claim the workers are malingering. I, personally, do not support the contention that because a man or woman suffers an injury which is not so easy for the doctor to diagnose, because of the nature of the injury, that he or she should suffer by not having the fullest compensation.

We all know that in the sugar industry back strains are frequent because of the nature of the work. I have had workers coming to me frequently with injuries caused by the fetching of cane across the planks which carry them from the cane cultivation to the punt. It is not easy for a doctor to state specifically that there is a strain. He has to rely on the complaint and diagnose on the description given by the patient. The X-ray does not reveal anything because it concerns muscles and not bones, and it is necessary to take the worker's word for it and also the various factors concerned.

I know this will mean a great deal to the workers in all the heavy industries because there is frequent injury in certain industries; not as some employers say, that the workers desire compensation and are malingering or are seeking ways of not working. I do not subscribe to that trend of thought. I believe that the workers do not want to be injured; but in the heavy industries like sugar and timber, we find a number of accidents which cannot always be avoided. There is no doubt that with better techniques, better management and improved precautions, we find that the number of accidents in many industries is going down.

I am always favourably impressed when I visit the two bauxite industries in British Guiana to note the amount of attention they devote to this question of accident. The Reynolds Metals Company at Kwakwani has a notice board indicating the number of accidents it has in a month, and the workmen do their best to keep the figure as low as possible. The same thing I noted at the African Manganese Company where the desire to keep the accident figure as low as possible is instilled in the workers. All these things help the Company and, obviously, the workman to have long and healthy service.

The Committee also makes a very important recommendation, 9, in their Report in which they say this:

> "(3) Notwithstanding anything to the contrary provided in this Ordinance, in the event of permanent total or permanent partial incapacity following temporary incapacity no deduction shall be made from any lump sum payable in respect of such permanent total or permanent incapacity by reason of weekly or half monthly or other periodic payments having been made during temporary incapacity."

[MRS. JAGAN]

In other words, where the workman is temporarily incapacitated and receives his payments under the Workmen's Compensation Ordinance, such payments shall not be deducted from his lump sum payment if he is totally incapacitated or partially incapacitated.

There are cases where a workman is injured and during the first few days or weeks it is not always possible to determine the full extent of his injury. It is not always possible for a doctor or surgeon to determine the degree of incapacity. Whether it is merely temporary incapacity or permanent incapacity or partial incapacity, the workman receives money for a few weeks and sometimes months.

When the final assessment is made of the incapacity and the lump sum determined under the present law, the amount he received up to that day is then deducted from his lump sum. In some cases it does not mean much, but in others it is a substantial sum; and cases have come to our notice where the final assessment has been made and the worker has already received more than the total lump sum which should have been allocated to him.

The Committee has recommended, then, that all payments up to the point of determining the degree of incapacity should not be deducted. You will find this recommendation embodied in the Bill before us. You will further find a slight extension of that to include persons who die as a result of accident. In other words, a person may be receiving periodic payments for a period and then he may die as a result of the accident. Normally, from the money his widow receives — the lump sum payable for the loss of his life — an amount is deducted in accordance with the money he had received as payment while he was alive. We are suggesting in this Bill that no such deduction should be made in the case of the death of the worker. It seems to Government that this is abundantly fair.

In the case of the worker who is totally or partially incapacitated and who must face life and earn a living with a disadvantage which may preclude him from finding employment, it is only fair that he has a reasonable and just amount of money to start in his attempt to find work with at least a lump sum which has not been drastically reduced by money which he had received during the period he was undergoing treatment.

We have, too, another very important Amendment to the Workmen's Compensation Ordinance — a recommendation of this Committee concerning the question of light work. We have had the experience that when a doctor examines a worker who has been in an accident, he may say that the worker is fit for light work. The worker may then go back to his employer with the medical certificate saying that he should be given light work. We then get many complications when light work is not available and such worker may or may not be getting assistance or compensation during this period. The Committee recommended this:

> " . . . that 'ability to earn' should be linked with 'availability of work' whether with the employer concerned or with other employers. It was suggested that in such cases the employer in whose employment a workman was injured ought to do everything possible to find alternative work, and if this was not possible the workman himself should make every effort to find such alternative work. If such work is available and the workman does not avail himself of it, his compensation should, in that circumstance, be reduced."

Therefore, the Committee recommended that the word "suitable" and the word "available" be inserted to give greater clarification of the intention of the Ordinance in this respect.

Further, the Workmen's Compensation Advisory Committee dealt with the question of what is the age limit of an adult and a minor. They made recommendations. In Clause 2 a minor is defined as a person who is above the age of 14 and an adult is a person of 18 years and over.

Members will note that the Section dealing with the funeral expenses has been slightly altered in keeping with the present-day costs of funerals, from $38 to $50. We have checked with the funeral parlours and found that $50 will be considered an appropriate figure.

Members of the Committee further made this recommendation: that in a case where persons wish to have medical referees in circumstances where the employee is dissatisfied or the employer is dissatisfied with the certificate or the opinion of the doctor, they either can request the Commissioner of Labour or the Director of Medical Services to appoint a medical referee. Previously, one had to apply to a magistrate for the appointment of a medical referee. This is rather a difficult or tedious procedure. To make the procedure easier it has been recommended that the application should be made to the Commissioner of Labour instead of to a Magistrate, and Clause 8 of the Bill seeks to make that amendment.

I believe I have covered the important recommendations of the Workmen's Compensation Advisory Committee. I think they did a very good job in their examination of the Workmen's Compensation Ordinance. As I have said, the amendments proposed in this Bill follow, with one exception, the recommendations made by the Committee. I feel that the Bill provides for very valuable amendments of the Workmen's Compensation Ordinance, and I am convinced that the improvements will provide greater guarantees to workmen who may suffer accidents.

I do not anticipate that Members will raise any serious objections to any of the provisions of the Bill. I think we should all be anxious to give the fullest protection to workers who may be involved in accidents. We have gone through this Bill a number of times with a fine tooth comb, searching for any errors or omissions. My advisers are of the opinion that we have covered all the points necessary to be dealt with. I welcome hearing the views of Members on this most important Bill and I hope they will give it the support that is necessary to make it law. I formally move that the Bill be read a Second time.

Mr. Benn: I beg to second the Motion.

Mr. Tasker: The Minister of Labour has done her usual thorough job in introducing the Second Reading of the Bill and, as always, it is difficult to fault her on the way in which she has drawn attention to the objects and reasons behind the Amendments proposed. But all of us listening to her, however, could not help noting the way in which she glossed over the fact, as delicately as she could while at the same time taking credit for it, that she and her advisers had accepted, to the best of her knowledge, all of the recommendations of the Advisory Committee, with one exception. I am sure it will come as no surprise to anybody in this Council to know, of course, that that one exception has considerable import for the sugar industry.

The sugar industry, as I think the Minister will agree, is the largest employer in the country. It is hardly surprising, therefore, that it has more experience than any other employer in the operation of the Ordinance which this Bill is designed to amend and, as the Minister has stated, the industry was represented on the Advisory Committee and was very closely concerned in view of its expert knowledge—I think expert knowledge is fair in this context—of the workings of the Ordinance. I agree with the Minister that these Amendments follow generally, almost precisely, the recommendations of that Committee, and I think Members will agree, after listening to the Minister describing the more important of those recommendations and the effect they will have on workmen and their compensation, that the Committee did an extremely honest, fair-minded and constructive piece of work, and I warmly support the Minister in paying tribute to the Committee.

[MR. TASKER]

I understand that the sugar industry has no argument whatever against the period and the recommendation for increases in the levels of earnings or in the rates of compensation proposed. The Minister pointed out that the Committee's recommendation was in fact to raise the level of earnings from $1,800 to $2,400, whereas this Bill provides for a level of $2,700. The answer is perfectly simple, of course. In the interim of the Committee's recommendations being submitted to the Minister, earnings generally have increased again, and I do not think there can be any argument that the figure of $2,700 now put forward is a fair one.

Mrs. Jagan: Actually the Committee recommended $2,700. The report states that the proposals varied from $2,400 to $3,600, but they accepted $2,700.

Mr. Tasker: I stand corrected. However, I do not think it invalidates my point, which is that employers are warmly in favour of the recommendation of the Committee. However, they are seriously concerned about this one exception—and I think it is a matter which should concern all of us here, about the decision of the Government to ignore the recommendation of the Committee, subscribed to by the representatives of the Trade Union Movement, that the proviso to Section 8 (1) (d) of the Principal Ordinance should be modified but retained. The Minister did refer to this, but to refresh Members' memories may I, with your permission, Sir, read the proviso:

> "Provided that if the incapacity lasts less than twelve days no compensation shall be payable in respect of the first three days."

I should point out that that proviso is liable to lead one astray unless it is read in conjunction with Section 3 (1) (a) of the Principal Ordinance which makes it clear that no liability for compensation is incurred if the injury does not incapacitate a workman for a period of less than three consecutive calendar days. So that it is not affected by the Amendment proposed. Three days is taken as the minimum period for which compensation can be paid. The object of the proviso to Section 8 (1) (d) was, as the Minister said, to discourage malingering and abuse, and the Minister pointed out that by repealing that proviso, as proposed on page 2, Clause 3 (1) (h) of the Bill before us, Government is enabling a workman who suffers injury to claim compensation for the first three days of such injury without any limit thereafter, whereas the proviso in the Principal Ordinance says that if the incapacity lasts less than 12 days no compensation shall be payable in respect of the first three days.

The Committee recommended that the period of 12 days should be reduced to 10 days, but that the three days waiting time should remain. In other words, the Committee compromised by reducing 12 days to 10 days but still, with the Trade Union members agreeing, recommended that compensation should not be payable for the first three days unless the incapacity lasted 10 days or more. The Minister said that the effect of repealing that proviso would be to take us back to the pre-1952 position, which is perfectly true. What she omitted to say, however, was that the Venn Commission studied this whole question of workmen's compensation very carefully indeed, and came out with some very firm recommendations on it.

Now the Venn Commission Report is a document which is bandied about on both sides of this Council as a bible—but I do not quite regard it in that light. Anyway, the sugar industry has certainly carried out far more of its recommendations than Government has ever done in respect of recommendations made to them. In that light I think the Venn Commission Report is a valuable document and should be considered. I would, if I may, like to read two paragraphs from the Venn Commission Report which are directly relevant to this issue—paragraphs 66 and 67 on pages 64 and 65.

"*Rate of Compensation*

66. When, in January, 1948, the local Workmen's Compensation Ordinance (No. 14, 1947) was amended to cover the sugar industry the initial degree of compensation in all industries was in the case of workers earning up to $50 a month raised to the exceptionally high level of 100 per cent.; the period of time after which employers became liable was simultaneously reduced from ten days to two. This was no doubt intended to safeguard the interests of the lower paid field-workers, but it was represented to us that it has led to certain abuses in the shape of unnecessarily prolonged absence from work, which the widely scattered nature of the estates make it difficult to check, and has markedly raised the number and cost of small claims.

67. Having heard the evidence on both sides, we recommend that, although it would put the industry on a different scale from all others in the Colony, 75 per cent. be substituted for the present figure. In most other parts of the Caribbean the rate is 50 per cent. and we believe that nowhere else in the world are full wages taken as the initial basis for compensation."

In other words, the Venn Commission felt that while it would be making an exception in terms of the sugar industry, the rate of 100 per cent. for the largest employer of staff in the Colony could not be substantiated. Yet later when a new Workmen's Compensation Ordinance was enacted, the Venn Commission recommendation of 75 per cent. was not effected, as can be seen from Section 8 (1) (*d*) of the Principal Ordinance; and in addition we now have the aggravation that all rates are being substantially increased. In other words, where compensation was in real danger of abuse, according to the Venn Commission, this is going to be very much greater in future.

This question of abuse and malingering is a difficult one. The hon. Minister said she was not impressed by the arguments. She did not feel that anybody who talked about abuse and malingering — the facts of life — was playing the game. The hon. Minister probably is less experienced as an employer than perhaps many others in this Council. I agree with her entirely in terms of philosophy and moral approach, but I think it is absurd to dismiss the arguments with the view that malingering and abuse are not widespread. It is very largely held in check at the present moment by the proviso, but there is going to be a very real temptation if this Amendment goes through: a very real temptation for any man reporting any accident, no matter how slight. The Minister referred to strained backs. I would suggest a cut finger. Any person suffering injury would be tempted to prolong it for three days in order to claim compensation. He would still have to be incapacitated for three days.

It is all very well for the Minister to say she is not impressed by the arguments and the recommendation which is embodied in the Report of the Venn Commission.. I would like to know why she is so tremendously impressed with other recommendations and why she has singled out this one.

I say quite frankly that the effect of repealing the proviso can be very damaging indeed to the interests of a large number of employers, and therefore ultimately to employees. I am not suggesting for one moment that everybody is going to jump on the band-waggon. I agree with the Minister that every man has far more sense than that. But I think it is utterly unrealistic, in the light of all evidence laid years ago before the Venn Commission, to fly in the face of clear recommendations put forward by both sides— employers and employed.

The Minister made reference to accident prevention. She quoted cases she had seen of good efforts being made in this field both by the American Bauxite Company and by the African Manganese Company. I hope she will have an opportunity of seeing what other industries are doing. I can say that accident prevention is certainly not something associated only with North American companies. It is in the employers' interest to reduce dangers where they exist by fencing off dangerous machinery or

[MR. TASKER]

providing protective cover, for example. I believe the Minister is aware that the biggest section of claims for workmen's compensation came from cane-cutters, but good sense has triumphed and the results have been most encouraging in the cutting down of accidents.

To sum up, I would be in full agreement with the hon. Minister and with this Bill if I felt that Government was being entirely consistent in their approach and recommendations on this Bill. I cannot see any grounds, in the light of evidence produced, for Government refusing to accept the waiting period of three days. Why did they reject that instead of any other recommendation? I have endeavoured to show that there is a real danger in the removal of the proviso and this is causing considerable concern to employers in this country. It is the last deterrent, which should be regarded as a reasonable one against acts which, even if they are in the decrease today, are sufficiently prevalent to have caused great concern to the employers who sat on the Workmen's Compensation Advisory Committee.

Mr. Burnham: By and large, I have no particular criticism of this Bill, its objects and/or its reasons. The comment I am about to make is largely a technical one, for I believe, having experience in the case of *Gibbs vs. Bookers Shipping (Demerara) Ltd.,* that subsection (2) of Clause 3, which seeks to repeal and re-enact subsection (3) of Section 8 of the Principal Ordinance, will not have its desired effect when one considers the judicial interpretation of subsection (3) of Section 8 of the Principal Ordinance.

As I understand it, it is the intention of the Government that periodic payments made under Section 8 should not be deducted when a lump sum is to be awarded on application by the employer or employee to the Court. In the recent case of *Gibbs vs. Bookers Shipping (Demerara) Ltd.,* it was held, and no doubt the hon. Minister is aware of it, that it was within the discretion of the Court whether or not there should be any deductions or periodic payments made. One of the arguments in that case rose from the application of the maxim, *expressio unius est exclusio alterius,* and they said since Section 6 was specifically mentioned, it would then mean that the Court was competent to take into account and deduct from the lump sum any periodic payments made under the same Section 8.

In these circumstances, therefore, I would suggest that if the Government wants to make its point of view palpably clear, that it should be stated that, in fixing the amount of any compensation, the Court shall have regard to any payment, allowance or benefit, not being a periodic payment under the provisions of this Ordinance; so that it will be palpably clear that periodic payments under the provisions of this Ordinance will not be deductible and there will be no discretion of the Court. The point of view which I express is based on present experience, because I was on the losing side in the case of *Gibbs vs. Bookers Shipping (Demerara) Ltd.* That is the only observation I desire to make. I think that the Government would be well advised to make its language more explicit.

Mr. Jackson: While the Government may be giving some consideration to the point made by the hon. Member for Georgetown Central and, perhaps, prior to its reply to that observation, may I take this opportunity, first of all, to congratulate the Committee which entered into the task of advising the Government on amendments which were necessary to the Workmen's Compensation Ordinance.

Since there has been the realization of this point which, perhaps, has produced a slight degree of controversy at the moment, the workers and the trade unions have been bawling aloud at what was considered as somewhat a disadvantage to the workers. I shall refer to that at

a later stage; but I say that the Committee should be congratulated for having taken the trouble and the broadness of approach to the problem to make the recommendations contained in their report.

I want to say, also, that the workers may have been inclined to the view that there was some amount of sleeping on the part of the Government in that the matter was not brought before the Council earlier for the implementation of those recommendations. I accept the Minister's explanation in that she, herself, has said she was concerned with the extent to which the delay took place; but now that this has come to a head, I want to say, also, that the Government has acted rather commendably in accepting the recommendations of the Committee in the way it has done.

When the Minister was introducing the Second Reading of the Bill, she indicated that there was complete agreement between the T.U.C. and the Government on the phases and stages which have led up to this Committee. I think that she would not have made this statement if it were not true; but I would have preferred to know that a representative of the T.U.C. who sits as a Member of this Council was here to listen to her in detail and, perhaps, to raise any point which may not have been strictly correct. I am sorry I got on my feet before he returned to the Council Chamber. If he had been here a moment before I would have preferred to hear him speak on this very important matter.

It has often been said that workers malinger not only when they suffer from accidents of one kind or another, but they also malinger under normal circumstances. I am not going to deny that there is some sort of malingering at some point of time or at one stage or another. I know that the only people who malinger are those who suffer from a mental ailment; for as I said to someone at the bottom of the stairs before I came into this Chamber, laziness is the cause of a condition and that condition is due to a mental ailment of one kind or another or from one degree to another degree. If there is malingering there is need to take one course of action. If my premise is right — that malingering is the result of a mental ailment — then a course of education is a most positive approach to the problem.

I make this statement because I dislike hearing accusations from employers that people malinger; therefore, it seems to me to be the responsibility of both employers and employees' organizations to embark upon an active programme of education so that the workers—if at all it is true—would become somewhat more responsible in their approach to the problem which affects not only them as employees but employers in general. I say so because of my own attitude to workers.

When I hear an accusation of malingering, I deny it because I want further evidence—that the employers have got a full appreciation of the conditions under which the employees perform their duties and whether the employers, placed in the same position, would not do the same thing or even worse. That is a human factor which all should take into consideration. By that I do not mean that there should be malingering under normal conditions or where there has been an accident of one degree or another to an employee; or that, in keeping with the view expressed by the hon. Nominated Member, Mr. Tasker, removal as the last deterrent to malingering may not be sound and correct.

While I will not say that neither he nor the industry has the experience of what he is talking about, I want to say that malingering would not end by the introduction of any law which governs the payment of compensation. It is a psychological factor that is involved in this matter. It is something which can be tackled. It is something which can be tackled successfully—and I say this because of my own

[MR. JACKSON]

experience — if an attempt is made in a bold manner both by the employer and the employee through his organization.

I know that the sugar industry is, at the moment, expending great sums of money in making certain facilities available to the workers on the estates, and I would suggest if malingering is a point which has to be dealt with, it may form part and parcel of the courses which they now give for the improvement of the life and cultural aspect of the people who work on the sugar estates; so it should not be a great burden to the employer in that respect. I am glad Mr. Tasker did not oppose it in a manner which would have made it necessary to make an Amendment to the Clause to which he referred. This problem can be tackled successfully as long as there is vision on the part of the people. I take it that he was just drawing attention to what may be the fear of the employer in that direction, and I would suggest that if that fear does exist, even though there has been an admission that malingering has been reduced to a large extent, there ought not to be any fear of tackling that problem.

Wherever human problems exist they can be tackled and tackled successfully; and in view of the fact that the sugar industry is not afraid to tackle that problem in the labour field I think that the responsibility also belongs to the Trade Union Movement, and it is a challenge to the Movement that fear is operating in the minds of at least one group of employers. If it is a matter of education then it cannot be left to one arm of industry; the other arm which speaks for the workers must itself be prepared to tackle the problem vigorously, completely and sincerely.

If it is not done by them as a guarantee of faith and as an act to remove the fear in the minds of employers then the Movement itself will have fallen down on a very important element of responsibility to the workers and the country as a whole. Perhaps, if the hon. Member who speaks for the Trades Union Council were present at the time Mr. Tasker made his observation, he would have agreed with him that this is a matter of vital importance in the task of the Movement for which he speaks, and he would agree with me that since the employer has expressed fear, then not only is it the responsibility of the employer to attempt by way of facilities for education to remove that fear, but it is also for the employees' organization to take as bold a hand, if not a bolder hand than the employer himself.

It has been said that fear is the result of a lack of knowledge, and I accept that premise. The knowledge which is wanted now to remove the fear is one which calls for a degree of responsibility not only on a one-front level but a three-front level, that is the employer, the employees' organization and the employees themselves. I would commend that attitude to all concerned, and I would ask Mr. Tasker, who expressed fear that by the repeal of this Section the removal of the deterrent is almost complete, to see with me that as long as the problem is a human problem it is one which can be dealt with successfully, and that in course of time we will find that he who was once a malingerer is a supporter of the principle that an employee must recognize his responsibility to his employer who provides his means of livelihood.

Mr. Tello: I am sorry I was not here when this Bill was being introduced by the Minister, because the last speaker made reference to certain things which were said, and it is not easy for me to deal with them without knowing the context in which the comments were made. But it is perfectly true that in the course of its preparation this Bill was fully discussed with the T. U. C., and we feel that the efforts made were very commendable and acceptable. It is also true that at one stage the T. U. C. made representation to the Ministry of Labour and a Committee was set up on which the T. U. C. was represented.

I understand that from the Committee's recommendations this Bill was

prepared. The truth is that I have not given sufficient time to a study of this Bill. I felt from the indications I saw yesterday in the discussion of the Rice Producers Association (Amendment) Bill, that this Bill would not have been taken today, but I have glanced through it quite hurriedly and I see that the Minister has kept her promise. In every instance what the Bill seeks to do is accepted by the T. U. C. and we feel obligated to support it here today and to thank the Minister and her Ministry for the action taken.

With regard to what the hon. Member said about malingering, we have never admitted that there was wilful malingering as a sizeable conduct in any industry in the Colony but, like in every part of the world, there might be a few instances which, grouped together, might represent quite a number in the Colony as a whole. But the Trade Union Movement has been affording the workers trade union education and advice and holding seminars with the object of informing the workers of their responsibilities to the community as a whole, and the need for supporting the bargaining weight of their unions by giving a full day's work for a proper day's pay.

This Bill seeks to adjust the situation as it relates to the earning power of today as compared with what it was when the Principal Ordinance was passed. Opportunity was also taken to simplify certain definitions so that there would not be any misunderstanding as to what is meant by a "minor." Opportunity was also taken—and I am very pleased about it—to remove a source of tremendous misunderstanding, differences and disagreements between the unions and the employers in the matter of workers returning to work and being offered work, and a medical practitioner stating that an injured workman is partially recovered and suitable work should be provided for him. In the phraseology of the Ordinance it sounds rather a simple matter that a doctor is qualified to state the true condition of a worker whose capacity has been reduced, but we find in practice and the interpretation and application of the law there were tremendous differences of opinion, so that this piece of legislation is very much welcomed by the Trade Union Movement, and I think it will improve relations between the employer and a union in the interpretation and application of the Ordinance.

I have nothing but favourable comment on this Bill. I have not given it detailed study because we expected that certain things have been taken care of, but I desire it to go on record that I am sorry I was not present when it was being introduced, and that it fully meets the request of the T.U.C.

Mrs. Jagan: I am indeed gratified at the general acceptance this Bill has received from Members of the Council who have already spoken on it. The hon. Nominated Member, Mr. Tasker, as was anticipated, raised certain objections to what is proposed in the most significant Clause of the Bill, the one eliminating the period of qualification for workmen's compensation in the first three days of injury. The hon. Member has expressed his concern, and perhaps alarm, that the number of accidents may possibly increase as a result of the repeal of the Section of the Ordinance under discussion.

Mr. Tasker: To a point of correction! I did not say that the number of accidents will increase, but the effect of the same number of accidents being spread over three days.

Mrs. Jagan: I am sorry I do not feel that the hon. Member's fear will become a reality. There has been much talk about the question of discouraging malingering, and the hon. Member is of the view that the retention of this Section, with the implementation of two days' reduction, as suggested by the Committee, would make the position much better.

I have another point of view which I would like to express on the sub-

[MRS. JAGAN]

ject. I wonder, when we examine it very carefully, if we really must fear that there will be malingering if we remove this Section, because the law as it exists at present provides that in order to qualify for the receipt of the periodic payment of compensation for temporary incapacity in respect of the first three days a workman must be incapacitated for at least 12 days. The Committee has recommended that the period be reduced to 10 days.

I would invite Members to look at it in this way: If a workman wants to malinger or to fool his employer about the state of his injury I would say that the law as it stands now encourages malingering, because in order to get paid for the first three days the workman must appear to be ill for 12 days. In other words, if a workman is really not incapacitated or unable to work, in order to get payment for the first three days he is going to moan and groan for 12 days so as to get his compensation. I am sure we will get far better results in this approach which is more honest. If a workman is injured he is paid for the period during which he is incapacitated. What is the sense of saying you have to be incapacitated for 10 or 12 days in order to be paid for the first three days? It is illogical.

I do not know if the hon. Member appreciates the point I have made. Government in its consideration of altering this single recommendation of the Advisory Committee did not hastily come to its decision. It was examined from every single angle. We felt that it would not be in the interest of the worker to perpetrate it, and it can be said that the removal of this clause in the long run is ultimately going to satisfy the employer. I think both sides will support this Amendment, which has been made after very careful consideration.

One other point I would like to mention, on this question of malingering and accidents. It is my view that only a few persons who are completely mentally unhealthy will seek accidents. All of us do our best to avoid accidents. There are very few people in the world who go out of their way to get into accidents, even though they know that they would get some money in compensation. People think of it quite carefully before making such an attempt, because they know the risk of the accident becoming a far greater one than anticipated. We have to remember that. Only the other day I read of a man who planted a bomb in an aeroplane in which his wife was travelling, in order to collect the insurance if she died. Only a man who is mentally unhealthy can do such an act.

I would add that to avoid the realization of certain fears we should adopt the suggestion of the hon. Member for Georgetown North, that employers should educate their workers in the prevention of accidents. To a great extent also it is the responsibility of the trade union movement to educate its workers of their rights under Workmen's Compensation laws and of their responsibility in not exaggerating complaints and not pretending that any injury is greater than it is. I think the trade union movement is prepared to take the responsibility on its shoulders and to see that none of the laws to protect the worker is abused.

The hon. Member for Georgetown Central has raised a legal point which the hon. Attorney-General is examining and which, I believe, will more appropriately come up when we reach the Committee stage.

I again thank Members for supporting this Motion and, for the most part, this amending Bill.

Question put, and agreed to.

Bill read a Second time.

COUNCIL IN COMMITTEE

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

Clause 1.—*Short title*—passed as printed.

Clause 2.—*Amendment of section 2 (1) of Chapter 111.*

Mr. Burnham: Mr. Chairman, on the question I raised in the Second Reading, the point may be covered if we would insert a definition of the term "periodic payment", and I believe the Attorney-General would be of that opinion too. I do not know if he would put forward that amendment now or report progress on the Bill, leaving that over.

The Attorney-General: Well, Sir, I have looked into the point, and I think it is purely a legal point. My hon. Friend knows that the Rule of Law is that if a phrase is used in a section with one meaning and the same phrase is found in another section, it bears the same meaning, unless there is a specific provision that another meaning is to be assigned to it.

He has suggested that the words in sub-paragraph (3) of Clause 3 (2), on page two of the Bill, "periodic payment". be qualified by the insertion of a definition in Clause 2. If this new definition is considered in the context of Section 8 of the Principal Ordinance, which Clause 2 seeks to amend, it will be seen that it will be misconstrued, for there are several other references to "periodic payment" in Section 8 of the Principal Ordinance. If we find in due course that the Courts hold another view, I would be quite happy to argue that periodic payment means periodic payment under this Ordinance. It is not right to qualify the term by an amendment to this Clause.

Mr. Burnham: Mr. Chairman, I appreciate what the hon. the Attorney-General has said, and with no intention to be caustic I would add that however happy he may be to argue this case, a Law Officer normally does not have to argue these cases where workmen's compensation is involved. I would refer to the case of *McDermott vs. Tintoretto* as one in which another type of periodic payment is involved. There are other types of periodic payment. For instance, in the Merchant Shipping Act there is a form of periodic payment for a person who is ill. There must be a string of authorities to show that periodic payments made under obligations arising under other legislation are not deductible. And it is significant that in Section 11 of Chapter 111, it is specifically stated: "Any periodic payment payable under this Ordinance . . ." and I cannot agree with the hon. the Attorney-General when he says: under Section 8——

The Chairman: I think you should take time to consider it.

Mrs. Jagan: I beg to move that Council resume.

Council resumed.

ADJOURNMENT

The Chief Secretary (Mr. Hedges): I beg to move that Council do now adjourn until next Wednesday at two o'clock.

Council adjourned accordingly at 5.03 p.m.