STATE COUNCIL

WEDNESDAY, 23RD SEPTEMBER, 1953.

The Council met at 2 p.m., His Honour the President, **Sir Frank McDavid, C.M.G., C.B.E.,** in the Chair.

PRESENT

The President, His Honour Sir Edwin Frank McDavid, C.M.G., C.B.E.

Mr. W. J. Raatgever, C.B.E.

Mr. L. A. Luckhoo.

Mr. W. A. Macnie, C.M.G., O.B.E.

Mr. R. B. Gajraj.

Mr. P. A. Cummings.

Mr. U. A. Fingall.

His Grace the Archbishop of the West Indies, the Most Reverend Dr. Alan J. Knight.

Mr. G. L. Robertson.

Clerk of the Legislature—**Mr. I. Crum Ewing.**

Assistant Clerk of the Legislature—**Mr. I. R. King.**

His Grace the Archbishop read prayers.

The minutes of the meeting of the Council held on Monday, 21st September, 1953, as printed and circulated, were taken as read and confirmed.

ORDER OF THE DAY

GEORGETOWN TOWN COUNCIL (SPECIAL POWERS) (WATER SUPPLY) BILL.

Council resumed consideration in Committee of the Bill intituled:—

"An Ordinance to make provision for the supply of water to certain areas and for purposes connected therewith."

Clause 2—*Power of the Council to supply water beyond the city limits.*

The Chairman: On the last occasion we deferred consideration of two clauses—clause 2 and clause 4. With respect to clause 2, the hon. Member, Mr. Gajraj, made some observations on sub-clause (2) which deals with the enabling power of the Minister to alter or amend the Schedule to this Ordinance. I think that during the adjournment he gave further consideration to the matter and is now prepared to move an amendment.

Mr. Gajraj : On the last occasion we met there was considerable discussion on this sub-clause and I think that if we amend it in the way I would suggest the objection raised will have been met. I move that after the word "may" in the first line we insert the words "on the application of the Council", so that the Minister would only have power to alter or amend the Schedule to the Ordinance on the application of the Mayor and Town Council. I feel that it was never the intention of the framers of this sub-clause to give the Minister full or autocratic right to add or remove any area from the Schedule at his own free will. The Minister would hardly know on his own whether the plant is capable of providing any new area with water, and there must have been in the minds of those who framed this legislation some question of consultation with the Mayor and Town Council. Therefore, if the words I have

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suggested are inserted in the sub-clause it would be reasonable to give the Minister the power to alter or amend the Schedule to the Ordinance. I feel it would not be right for us to leave it to the Minister to do so on his own. If he is requested by the Mayor and Town Council to do so he would have the backing of that body and would know that he is doing something right. If the amendment is adopted the sub-clause will read as follows:—

> "(2) The Minister may, on the application of the Council, by Order published in the **Gazette**, alter or amend the Schedule to this Ordinance by adding any new area thereto or removing an area therefrom."

Mr. Cummings: I beg to support the amendment.

The Chairman: I desire to support it also. I think the intention was that the Minister, in exercising this power, should act in consultation with the Mayor and Town Council for the simple reason that sub-clause (1) speaks of "agreements with such persons as may be necessary to define the terms and conditions subject to which the Council will provide water under the provisions of this section." Therefore, the Minister cannot act without consultation with the Mayor and Town Council; and a little lower down—in clause 3—it would be seen that the Sewerage and Water Commissioners have to act in consultation with the Mayor and Town Council. It is but right, therefore, that we amend this sub-clause as suggested. I will now put the amendment for the insertion of the words "on the application of the Council" between the word "may" and the word "by" in the first line of the sub-clause.

Question put, and agreed to.

Clause 2, as amended, passed.

Clause 4—*Validation of certain acts.*

The Chairman: As regards clause 4, His Grace drew attention to the words "Decanting Centre" which are the style and title of the premises situate at the Company Path at Plantation Ruimveldt on which the new flats have been built—and has suggested, both here and elsewhere, that these words are not really an appropriate name for the premises. I have since spoken to one of the executive officers of the Housing and Planning Authority and have been made to understand that the official title of these premises is now "Laing Avenue Flats." I do not know if that is as graceful a title as one would have wished, but, nevertheless, I think His Grace would accept it as an amendment of the title referred to here.

His Grace the Archbishop: . . It is a question of definition and not a question of principle, and I think the change is quite acceptable. I therefore propose that the words "Laing Avenue Flats" be substituted for the words "Decanting Centre" in this clause.

Mr. Macnie: If I may say so, the Avenue has a board on which the name "Laing Avenue" has been painted. I may also state that the Minister of Health and Housing has himself informed me that the name of the premises has been changed.

Question that the words "Decanting Centre" be substituted by the words "Laing Avenue Flats" put, and agreed to.

Clause 4, as amended, passed.

Council resumed.

The President: This Bill has been passed through Committee with amendments, and as it is somewhat urgent,

with the consent of the Council, I move that it be now read the third time and passed.

Mr. Gajraj seconded.

Question put, and agreed to.

Bill read a third time and passed.

RICE FARMERS (SECURITY OF TENURE). (AMENDMENT) BILL.

The President: The next item is the resumption of the debate on the second reading of the Bill intituled:—

"An Ordinance to amend the Rice Farmers (Security of Tenure) Ordinance."

When the Council adjourned on Monday afternoon we were in the course of the debate on the second reading. I had moved the second reading of the Bill, which was seconded for the purpose of discussion by Mr. Raatgever. It was suggested that the Bill should be deferred for further consideration. I think it would be advisable that we continue the debate now on the second reading, and also that we might go into Committee to consider any amendments. After that I propose to leave the Bill in Committee, if hon. Members agree, in case the Rice Producers' Association should submit any further suggestions or recommendations for amendment. If hon. Members agree I will now invite discussion, and I hope the legal Members will speak first on the Bill.

Mr. Luckhoo: It was on the 29th of May, 1952, that the hon. Dr. Jagan moved a motion in the Legislative Council which stated:—

"Be it resolved that this Council recommends to Government the appointment of a Committee to examine the Rice Farmers (Security of Tenure) Ordinance of 1945 with the view of providing adequate security of tenure for tenant rice farmers."

The hon. Member saw fit to suggest that a Select Committee be appointed to go into the whole question relating to rice farmers' security of tenure under the Ordinance then in force, and with special reference to the experience obtained over the past years. That Committee inquired into the matter and one is rather surprised to find that while its report was in a state of preparation, or in the hands of the printers, we have had thrust upon us this amending Bill. It is no use attempting to delude ourselves. If we were to accept this Bill in its present form it would be a blot on our Statute Book; it would be a travesty, and it would be an invasion and an infringement of the personal rights of the subject. The very words and phrases so often quoted one can with justification use now—that the liberty and the freedom of the subject would definitely be imperilled.

Clauses 5 and 6 of the Bill, when analysed, provide a state of affairs which must shock the senses and the good reason of any individual who views the Bill with an unbiased mind. The Bill as presented seeks to give a District Commissioner extensive power — the type of power that one never gives to an individual. But he is being given power to go on any land after preliminary notice to the landlord of work to be done on that land, and require the work to be done. In the case of a landlord it is work which he would have to do in observance of the rules of good estate management, and in the case of a tenant, work which he should do in observance of the rules of good husbandry.

The first aspect I would like to present to this Council is the definitions, in the Principal Ordinance, of the terms "good husbandry" and "good estate management," which I consider very loose and not specific. Section 2 of the Principal Ordinance states:—

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"rules of good husbandry" means, so far as is practicable, having regard to the character and position of the holding—

(a) the maintenance of the land and the parapets thereon clean and free from bush, grass and other obstacles; and

(b) such rules of good husbandry as are generally recognised as applying to holdings of the same character and in the same neighbourhood as the holding in respect of which the expression is to be applied;

"rules of good estate management" means so far as is practicable, having regard to the character and position of the rice lands—

(a) the maintenance and clearing of dams, trenches and drains and koker runs; and

(b) where the lands are within a drainage and irrigation area, the execution and maintenance of such further works as may be required to ensure that the tenants obtain all the drainage and irrigation which it is reasonably possible for them to obtain; and

(c) such rules of good estate management as are generally recognised as applying to rice lands in the same neighbourhood;

There is nothing in those definitions which is specific. They are in the most general terms conceivable, and the question of interpretation of what are the rules of "good husbandry" or "good estate management" would, in my opinion, be a matter for determination by a judicial tribunal, and should not be left to the absolute discretion of a District Commissioner.

What would be the position if clause 5 of this Bill were accepted? It would mean that a District Commissioner could enter land and say that the drainage provided by the landlord for the tenant was inadequate. He could direct that a canal be dug and drains provided, and order that such work be done. Let us suppose that the land is worth $200 and the works which the District Commissioner orders to be done call for an expenditure of $1,000. The landlord must have those works done within a specified time, failing which the District Commissioner is given the power to have the works done for him. There is no limitation as to the amount which may be expended on the land, so that if a landlord does not acquiesce he would have no say in the matter at all. It is something which is decided for him, and a process which is known as parate execution could be then brought into play, and in a very summary manner a landlord's land could be taken away and sold without any right to the individual to go to the Court to have the matter determined.

I will deal in a moment with this aspect of the matter from the tenant's point of view, because he is also under an obligation, but for the present I am directing attention to the position of a landlord which is most invidious. He will have brought to him a set of new rules which binds him, but which was not the basis of his original contractual relationship between the tenant and himself. In other words, when the landlord let out to the tenant, there was no such ordinance in force. He cannot give tenants notice to remove, but he is in a position where he can be faced with expenses amounting to hundreds, maybe thousands of dollars which he must either pay or have his land sold out of hand. What would happen is this, that landlords would find themselves soon dispossessed of their lands. They would find that their lands would be put up at execution sale and be sold; and the avenue would be wide open for them to be in a state whereby they own the lands but they can exercise no control over them and charges can be made against the lands and the lands can be sold without their having any say or redress in the matter.

But it goes further than that. Let us take the example I was giving a

moment ago. A piece of land is worth $500.00 and the cost of empoldering it is to the extent of $2,000.00 or $1,000.00. Let us assume that the landlord sells everything he has — because he is forced by Government to have the work done—and he pays $1,000.00 or $1,500.00; what about his committment to maintain all the work, that is, his annual maintenance upkeep, and how much will he get in return for this heavy capital outlay? The position presents a picture which, to say the least, is unfair and inequitable, and it is repugnant to human nature that persons can come onto your land, though you may only have a small holding—there are poor landlords too—and dig drains and trenches. You will have to conform to it, or your land will be put up at execution and sold.

I do not know that when the House of Assembly considered this matter and approved it—I think all three readings went through in a hurry—that they gave full consideration and thought to the matter of parate execution. Justice Edgar Mortimer Duke, a very learned Judge of the West Indies in his "Treatise on the Law of Immovable Property in British Guiana"—if I may be allowed to quote. Sir—quotes at page 30 Sir Crossley Raynor, C.J., on the definition of parate execution, as saying it is

> "an extraordinary remedy peculiar to Roman-Dutch law by means of which the Government enforces payment of some sum due to it. It is entirely unknown to English law....It is a speedy and drastic remedy. On a certificate by a public officer that money is due to the Government the Court issues execution against the property of the debtor. Originally, parate execution appears to have been a remedy available only to the Government, but, in this colony, the Government has from time to time allowed the remedy to be used by various public bodies, such as Town Councils, Boards of Commissioners...."

The point I would stress here is that the remedy of parate execution as a remnant of the Roman-Dutch system is a remedy which is speedy and drastic and something unknown in English law. What happens is this: a certificate is issued, in this case, the Minister will write to the Registrar and say, "We have done work on X's land to the value of $5,000.00 or $1,000.00 and he has not paid the money." The Registrar prepares a notice of demand and sends it to the Marshal. The Marshal goes and sticks it up on the land—if there is a building he puts it up there, or if there is a post, he puts it up there —demanding payment within 24 hours. If payment is not forthcoming then the Registrar goes to the judge *ex parte* for what is called a writ of *fiat executio*, and the judge merely signs a document, the property is levied upon and put up for sale. Land which is worth $500 may be sold for $2.00 or $3.00. Your own land is put up for sale for work which you did not wish to have done. Work is done without your express authority, and you are saddled with the responsibility of paying for it, or else you will be dispossessed of your land. If I may, Sir, with your permission "The Civil Law of British Guiana" by Dalton explains:

> "In Roman-Dutch law 'parate execution' is immediate execution without previous legal proceedings."

That is the tenor of the whole thing. It is a ready summary manner of arriving at a conclusion: that is, either the money is paid or the land is sold.

We have viewed it from the point of view of the landlord. Let us see what happens in the case of the tenant has to confirm to the law relating to good husbandry, recognised as applying to holdings and so on. The Commissioner can go and ask him to do work which he deems to be coming within the scope of good husbandry—even though the Commissioner's idea of what is good husbandry might differ material from somebody else's on the subject. The tenant can be forced for

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if he does not do the work, then in turn, the Commissioner can get people to go and do it, and the tenant is liable. In this way the tenant must pay money for work which he did not authorise. His position is that if he does not pay, according to this Bill Government can come down against the land he is renting by way of parate execution, and can also proceed for recovery of money. The judgment does not go against a person, it goes against the land, so to speak. This drastic method of parate execution, whereby you have no say in the matter and you lose your land because you did not get your drains cleaned is Gilbertian.

What will happen if the landlord should take responsibility for these heavy charges—they may be $500.00, $600.00 or $1,000.00—and his rice-planting tenants should decide, "We are not remaining any longer on this land"; or the prices of rice go down and it is not possible for them to produce any more rice. There are a number of cases of that nature that one can think of. I have already raised the question as to who is going to pay for maintenance of this capital expenditure year after year — relating to dams and trenches. What is going to happen in a case where a person's land is mortgaged to someone else and the land now charged with the responsibility of this duty. What is going to be the position of the mortgagee? Can anyone envisage a person advancing money or taking a mortgage on rice lands, when he is faced with the possibility that the land at any stage can be subjected to parate execution? Is this not a millstone around the neck of the rice industry in the manner in which it was framed?

But what is more shocking is that no provision is made, despite all of these unconscionable provisions, for the holder of a bit of land, either a landlord or a tenant, to go to the Supreme Court or to a Judge and say "I ask that this matter be reviewed." We know how money is spent in this country, and one knows how in public works money is often termed wasted. What is going to be the position of the person who owns or holds land if the works on that land which should cost $500 cost $1,000 because of waste and improper management? The position is, he is in the unfortunate position as owner or holder of the land of having to foot the bill and cannot go to the Court and say "I ask that this matter be reviewed and I be given release for money which had been improperly spent." Under the Housing and Planning Ordinance there is provision where one can go to the Court and obtain the Court's assistance. One should have imagined at least that, if such a section of the law as this is being framed, that opportunity would also have been provided. As I say, this is only the thin edge of the wedge. It is an invasion and infringement of the personal rights of the subject. It is the thin edge of the wedge which can lead very easily to people being dispossessed of their land.

I have spent a long time on that particular clause, but I would just like in conclusion to say that if that clause were to be permitted in the form such as it is, persons who own rice lands would be only too happy and glad maybe to give away their lands rather than to be faced with liabilities unknown now and in the future. What is going to be the position if a person wishes to sell his land and there are tenants on it? It means that the new purchaser would have to keep those tenants there but he must necessarily shoulder the same responsibilities brought upon him by this Ordinance. The result of that would be that the price of the land would go down, where one is not able to obtain a fair market value and where the land is

encumbered in this manner or form. If at the time when the land was originally let out to the tenants as rice lands there was some such understanding, then it could be said that the landlords and tenants agreed to this and it forms part of their contracts. But in this case something is brought into being affecting their status which is shocking, and I must necessarily oppose it.

There are other comments which can be made in respect of clause 5, relative to the discretion of the Minister who shall decide how much time must be given to pay the money and also decide as to what the rate of interest must be. One does not at present know what the position would be in the future. Why should a Minister be able to decide as to how much time Farmer A and Farmer B should have? Is it not opening the Minister to the charge of being biased in favour of one if he charges 4 per cent. to one and 6 per cent. to another? That would make his position untenable. In respect of clause 6 which reads:—

> "The Principal Ordinance is hereby amended by the insertion therein after section twelve of the following new section—
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> 12A. (1) Where any landlord who has resumed possession of any rice land under the provisions of section twelve of the Ordinance fails within twelve months to use such lands for the purposes specified in his application for leave to determine the tenancy under the provisions of section twelve of this Ordinance, he shall be deemed, until the contrary be proved, to have made a false declaration...."

Is this the way a penalty is being invoked for making a false declaration by a landlord whereby he obtains possession of his land? Whatever might be said, we live under a system of jurisprudence which is second to none in the world. It is not a silly or idle remark which I make here, but a remark I have heard jurists in other countries make, and it has almost become a trite saying that the system of English Jurisprudence is pre-eminent and stands out especially in dealing with offenders and alleged offenders, because the principle under which our law operates is that the onus shall be always on the prosecution to prove guilt and the person charged is presumed not guilty, not as you find in some of the Continental Courts. In this Colony, as a general rule, a person is deemed innocent and the onus is on the prosecution to prove the charge against the person. The number of cases in which this rule is varied is limited. It is only in cases of Customs offences where the obligation would be on the person to know where he got the article from, and it is not necessary for the Customs Authorities to prove where he got it from. That is something within the particular knowledge of the individual, and the onus is never shifted to prove ownership of the article and the payment of duty thereon. Here in this clause 6 what is sought to be done is to place the onus upon the landlord to prove the contrary. To use a common parlance, he is guilty except he proves the contrary to be true. Why should this be any different from our Rent Restriction Ordinance? I quote, Sir, from that Ordinance, No. 13 of 1947, section 7 (4), which says:-

> "Where after a landlord has obtained an order or judgment for possession or ejectment under this section, it is subsequently made to appear to the Court that the order was obtained by misrepresentation or the concealment of material facts, the Court may order the landlord to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by the tenant as the result of the order or judgment."

There are quite a few of these cases coming up before the Court in which every satisfaction is obtained

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whereby the tenant is able to show that the grounds or reasons given for possession were not fulfilled by the landlord who made other use of the particular property. The tenant there must go and establish his case and not as stated in clause 6 here. Before I take my seat, Sir, I would say that this Bill is hurried and premature and could not have been conceived by matured thought but was the result, perhaps, of hasty judgement, and presents a ludicrous farce in that one can find A being made responsible for the misdeeds of B in the cases where the landlord's land may be sold because his tenant does not do what should be done. On the suggestion of Dr. Jagan a Committee was appointed to investigate this matter and had gone to the trouble of preparing a draft Bill with their Report. That Report should well form the focal point around which a proper reconsideration of the whole matter and recasting of the old Ordinance should be made rather than this hasty legislation which would be a blur on our statute Books.

The President: Before the hon. Member sits down — he has certainly thrown a good deal of light on this matter — would he assist this Council by dealing with Clause 8, which seeks to substitute the Minister for the Governor as a sort of Court of Appeal in cases where the District Commissioner has made a decision not only in respect of action under this Bill but under the old Ordinance? Under that Ordinance an appeal does lie to the Governor through the Chief Secretary, and clause 8 of this Bill seeks to substitute the Minister for the Governor. I would like the hon. Member to assist the Council in dealing with that.

Mr. Luckhoo: The Minister is the Head of the particular Department of which the District Commissioner would be a member, and so the District Commissioner would be under the Minister if not in reality, accepting instructions and orders from the Minister holding that portfolio. It seems hardly right that the Minister should be the person to be in the nature of an Appeal Court in respect of the action of the District Commissioner. It would be in reality but appealing from Caesar to Caesar. It would not be giving the same opportunity for an impartial adjudication. I am entirely fixed in my view on that. If ever there is to be an appeal in these matters at all, it should be to a person who has no political bias and who is above the structure of politics and who is divorced from the District Commissioner and his department and from the Minister and from the landlord and from the tenant. The person who would be sitting in judgment in the appellate jurisdiction must bring to bear a free and unfettered mind on the appeal. Why should it be a particular Minister? One does not know, because the logical person to whom an appeal should be made in a case of this nature should be the Governor. I do not think there is anything further I can usefully add.

Mr. Cummings: I propose to be very brief because I consider that my learned and hon. friend has covered this matter very thoroughly and correctly from the legal aspect of it. I shall begin where he has left off — at clause 8. Under the Rent Restriction Ordinance and the District Lands Partitioning Ordinance there is provision for appeals to a Judge in Chambers.

I do not agree with the hon. Member when he says that the words "the Governor" and "the Colonial Secretary," wherever they occur, should be substituted by the words "the Minister". I think that an appeal of this nature — which calls for the taking of evidence—

and so on — would be best left to a judge in Chambers. There might be a certain amount of impracticability about that, however, because there might be a number of these cases and it might be difficult to get them heard — within a short time. If this Council takes that view, I would suggest that an appeal should go to the Magistrate in the district in which the land is situate. On the whole, I think that all I need say is that the effect of this Bill would be to give to the Minister power to dispossess a landlord. That, Sir, would be a grave invasion of the private rights of the individual. It is an aggressive and totalitarian approach and we should not permit our statute book to be sullied with any such unworthy document.

With regard to clause 6 of the Bill, it strikes at the very root of the fundamental principle of British law. I am puzzled to know what was passing through the mind of the draughtsman when he prepared this Bill, and I feel, Sir, that I need not make any further comment. It is obvious that a Bill like this—in its present form — is wholly unacceptable to anyone who places any value on the private rights of any individual. I therefore propose, wholeheartedly, to oppose this Bill as it stands.

Mr. Raatgever: I am opposed to this Bill and will vote against it. I have listened with a great deal of interest to the remarks made by the hon. Member, Mr. Luckhoo, who, incidentally, has stolen a lot of my thunder. I said here on Monday last that I would speak at length on this Bill, but I am afraid I would have to cut my speech short today otherwise I would only be repeating much of what Mr. Luckhoo has said. As I said last Monday, this Bill seeks to impose a dictatorship which is contrary to the British Constitution. As I have already said, in this Council, the Union Jack flies over this country and as long as I have a say in the matter it will continue to fly.

Clause 5 of this Bill gives the District Commissioner power to enter upon private property and, without the consent of the proprietor and against his will, to carry out work costing thousands of dollars, possibly, —internal works such as keeping parapets clean, digging channels, trenches and so on. Given an estate of about 400 acres, these things would cost roughly $10,000 to do. It means that when this work is done the landlord would not be able to recover the cost or even the interest from the tenant whose rent, under the Principal Ordinance, is tied to the 1941 figure. Clause 13 of the Principal Ordinance—No. 10 of 1945—states:—

> "13. (1) Subject to the provisions of this section, the standard rent of any rice land shall be the rent, or the average rent as the case may be, which was payable for the letting of such land during the year nineteen hundred and forty-one , . . . "

The present rent, therefore, is tied to 1941—for all lands that were occupied by people planting rice. The rent for any land that has been empoldered since 1945 is not included here, but most of the estates on which rice is being planted were occupied in 1941 by the same people who occupy them today. Whether the landlord spends $10,000 or $5,000 he cannot receive one extra penny—for interest charges or otherwise—from the tenant. It means that the land, as Mr. Luckhoo has said, would become uneconomic and a landlord would not be able to dispose of his land to anybody. On the other hand, a landlord would not be able to get possession of his land to use it for any other purpose, unless certain specific reasons are given. It seems to me that the framers of this Bill should have waited until the report of the Select Committee which was appointed

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last year to go into this question was issued—and that report has now been submitted to Government—before bringing forward any legislation. In paragraph 7 on page 7 of that report the Committee states:—

> "7. We are of the opinion that an amendment of the existing Ordinance will not suffice and that a new Ordinance should be enacted to take the place of that Ordinance ...."

It has been recommended that a new Ordinance should be enacted, and I am in agreement with that. The Principal Ordinance expires on March 9, next year, and padi is now being reaped. Therefore, there is really no necessity to legislate now. The work can be undertaken next year before the planting of padi begins. It seems to me that the Minister of Agriculture, Lands and Mines was premature in bringing this Bill forward. I understand that his reason for doing so was the scarcity of water on some of the rice estates, but that situation is ended now. The rice farmers do not need water now and, as a matter of fact, the rain that is falling now might interfere with the reaping of their padi. I see no reason why we should not wait until next year when we shall have had time to consider the report of the Committee referred to, before bringing legislation in this matter.

As regards clause 6 of this Bill, Mr. Luckhoo also dealt with it but what I cannot understand is why the legal members of the House of Assembly and the Attorney-General did not point out that this clause is contrary to British law and justice. The clause says, in effect, that a man is guilty before he is tried, but under our British law a person is not guilty until he is proved guilty. In other words, the clause is following the French law, but we are not in France. It seems to me that the Minister, in framing this Bill, did not know what he was doing.

The President : He knew what he was doing.

Mr. Raatgever : If he knew, then he did it mischievously. I will not say much more, since Mr. Luckhoo has spoken already and has said much of what I intended to say. I just want to say that I am going to vote against this Bill, since it interferes with the private rights of the individual. It will also put the landlord in a position of having to incur capital expenditure which he cannot recover from the tenant. I should also like to point out that in 1941 the price of padi was around $1.20 per bag but today it is $4.95; so that the tenant has been getting not only increased yield from the land but also an enhanced price for his padi. He is getting four times the price he was getting in 1941, but his rent is still fixed on the 1941 basis. That is unfair and I maintain that this is discriminatory legislation, but what else can one expect from the Minister of Agriculture, Lands and Mines, who is a pillar of the People's Progressive Party?

Mr. Robertson : I would like to make some remarks on this Bill, but before I begin I must congratulate the hon. Member, Mr. Luckhoo, on the way in which he has represented the landlord in this matter. What I would like hon. Members to understand, however, is that when this Bill was drafted and brought before the House of Assembly there was an emergency existing. This Bill was drafted before the report of the Select Committee, referred to, was submitted to Government. I can recall the Speaker of the House saying that the Bill was only an emergency measure, and that after the situation had shown some improvement there would be a new Ordinance based on the report of the Select Committee.

Mr. Macnie : To a point of correction! The hon. Member is referring to the Speaker of the House, but I think he means the Leader.

Mr. Robertson : That is so; I mean the Leader. The hon. Member, Mr. Luckhoo, has said that a Bill like this is an infringement of the rights of private individuals in this country and would be a blot on our Statute Book, but to hear such a remark coming from such an individual leaves one aghast.

The President : I did not catch the end of that sentence.

Mr. Robertson : I would not like to repeat it again, Sir. I would like to avoid recrimination. I remember also, that Mr. Luckhoo said that when it came to the question of good husbandry and good estate management, it should be left to the District Commissioner to decide. That is wrong, because that section of the Ordinance is not changed or amended. I do not think there is anything wrong with the definitions in the Principal Ordinance of the "rules of good husbandry" and the "rules of good estate management." (Section 2 of the Principal Ordinance—"rules of good husbandry" paragraphs (a) and (b), and "rules of good estate management" (paragraph (a) *read by the Member).*

The President : Will the hon. Member go on to read paragraph (b) relating to "good estate management." because it was on that Mr. Luckhoo made most of his criticisms.

Mr. Robertson : Yes, Sir. (Paragraph (b) read by the Member).

The President : Most of Mr. Luckhoo's argument was based on the possibility of works being authorised by a District Commissioner being of greater cost than the value of the land itself.

Mr. Robertson : Yes, Sir, but with that suggestion I disagree. I cannot for one moment believe that a District Commissioner would undertake to have work done on land at such a cost that the landlord would not be able to pay, except in the case of new land. These lands are already drained but the landlords will not provide water for irrigation. We know these things; those are the things which are causing so much confusion and trouble. Our Ministers are not of the armchair type; they go on the spot to investigate for themselves. That is how the Minister of Agriculture (Dr. Jagan) has been able to draft a Bill like this. He went and investigated himself, and saw what was happening. I have seen it myself throughout the country.

There are landlords who cultivate portions of their lands and rent other portions to tenants. In some cases they hold up the irrigation water at the top so as to deprive their tenants of water. They either refuse to open their kokers or wilfully keep their koker-runs blocked. We have had to examine some of these things. I may mention the case of Mr. Deoroop Maraj whose tenants' rice crops were burnt because they got no water at the back. Why did he do it ? He wanted the tenants to get off the land. The price is high today. Formerly the landlords were prepared to sit down and receive rents from their tenants, but today they are bringing in machines and moving their tenants off the land in order to cultivate it themselves. They are using bulldozers and other machines because rice is fetching a good price today.

The President : In other words it is a profitable industry.

Mr. Robertson : Yes, Sir. We find in some cases—

Mr. Raatgever : Mr. President, I would like to know whether the hon. Member, Mr. Robertson, has any actual knowledge or experience of the fact that the cultivation of rice is a profitable undertaking. I would like him to state that.

Mr. Robertson : Today the cultivation of rice is a profitable undertaking. I say that. I observe that Mr. Raatgever said that rice tenants were paying the same rentals today as they paid in 1941. There are some tenants who pay their rents in padi—two bags of padi per acre. They are required to pay the same two bags of padi today as they did in 1941 when, I think, two bags of padi were worth about 10 shillings. Today two bags of padi are worth about $8. There are cases in which landlords keep pegging at their tenants in order to get them to remove. We must not blind our eyes to these facts. The same state of things obtained in Georgetown some years ago which caused the Government to enact the Rent Restriction Ordinance, but in spite of the existence of that Ordinance tenants are still suffering at the hands of landlords. The same thing is happening all the time. Landlords are doing everything to squeeze every ounce they can get out of their tenants. To stand up and say that such things are not happening—I do not want to hurt anybody but I consider it dishonest, unless we are absolutely ignorant of the facts.

The hon. Member, Mr. Luckhoo, remarked that the Bill seeks to put too much power in the hands of the Minister. When I hear or read such criticisms coming from individuals I can only come to one of two conclusions—either that they are grossly ignorant of the Ministerial system or they are showing their disrespect of the Ministers. In my opinion a Minister must have a certain amount of power. He must exercise that power in everything that comes within his jurisdiction. The Governor has power over the entire country. The Ministers, the Chief Secretary, the Attorney-General, and the Financial Secretary, all have the same power each in their department. We find that a Minister or the Chief Secretary may appoint a Board or a Committee to advise him. The Governor also has the power to appoint a Committee to advise him, but we always find it stated in the Constitution that he is not bound by the advice of a Committee or Board. He can always act on his own initiative. If a Minister does not have that much power then what is he? A figurehead? That is exactly what some of us are trying to make of the Ministers.

It has been said that in subclauses (3) and (4) of clause 5 the Minister is being given too much power, but I would like to point out that it is clear that he has to act after consultation with the District Commissioner. It has been said that parate execution is not provided for in the law of this country.

Mr. Luckhoo : I said it was a summary form of procedure.

Mr. Robertson : We find that the same power is given to the Town Clerk of Georgetown and to the Village Councils. The Minister has the right to have that power. That provision is only for the case of a very recalcitrant person. We find in clause 5, subclause (3) that

> "Any expenses incurred by the District Commissioner in the performance of his duties under the provisions of subsection (2) of this section may be recovered by the District Commissioner as a debt due to the Colony from the tenant or the landlord as the case may be by action in a court of competent jurisdiction."

Then again, we find in clause 9B subclause (1), that

> "Notwithstanding the provisions of section nine A of this Ordinance, the Minister may, in his discretion, permit any tenant or any landlord who has become liable under the provisions of section nine A of this Ordinance for the payment of any expenses incurred by the District Commissioner, to pay such expenses within such time and on such terms and conditions as the Minister may think fit."

Now, Sir, I remember the hon. Member saying that such a thing should be referred to the Court. When an individual comes to the Minister—or writes to him—and says "I cannot pay this money at once, because I have no means at my disposal. I can pay it in such and such a time," or "give me some time to pay it," the Minister can say, "yes."

Mr. Cummings: On a point of order, Sir. I said an appeal should go to the Court.

The President: I think it was Mr. Luckhoo who referred to the possibility of discrimination in the exercise of this particular power by the Minister. The hon. Member (Mr. Robertson) was saying that if one went to the Minister he might use his discretion.

Mr. Robertson: Sir, it amounts to a lack of trust of a Minister of the Government. The Minister must be trusted. I do not believe he would look at one individual and say, "All right, you take three months to pay" and to another individual, "You take 10 years to pay." I do not think that kind of Government is in existence. This legislation looks strange to this Council, and to a good many people in this community, but you see we are not accustomed to just keep on talking. We believe in the principles of application: that is all. If there is something to be done, then have it done. I am certain that no member of this community — I can say it here — will ever be able to charge the Majority Party or its Ministers, throughout its regime with discrimination. That would be nonsense. We believe in justice for all.

Now, going back to this motion: I will agree that the emergency has passed. I do believe so because the rain started, and we were able to pick up a good many pumps. These pumps in some districts have been going full blast, and some of us know that the rain saved the situation. Mr. Raatgever said they have reaped their rice. I would like to inform him that not all—

Mr. Raatgever: To a point of correction, Sir, I said they have started

Mr. Robertson They have started. I do know a new Bill will come to this Council later in the year, and when that Bill comes I am certain you will still find a good many of the clauses now in this Bill, is that one.

Mr. Macnie: I would like to say one or two things on the remarks of the hon. Member who has just taken his seat. I do not know if the hon. Member is disappointed today: I know he was disappointed on Monday last when he did not manage to unglue me from his seat. (Laughter).

I must first congratulate him on admitting that the emergency no longer exists. If I follow him correctly, his first words were that the legislation was introduced because of the existence and apprehension of an emergency, and his last words, this emergency no longer existed. I do not claim to be a logician, but now that the emergency has passed, the need for legislation no longer exists—for reasons given by other speakers as well as the last speaker—and I propose to oppose the second reading.

[Mr. Macnie]

We received on the 14th of this month an extensive and quite voluminous report on security of tenure in regard to rice lands held by farmers by the Committee which was appointed as a result of a motion by the present Minister of Agriculture, the hon. Dr. Jagan. As a matter of fact Dr. Jagan was a member of that committee, but unfortunately he decided on the 1st June of this year, as stated in the report, to resign from the committee, on his appointment as Minister. Therefore we do not know—that is why I said "unfortunately"—to what extent the hon. Minister is in agreement with the findings of the committee. The committee in my view approached the task with great care and dilligence, and did not spare themselves in going around the country getting evidence from the people, and went to the trouble of preparing a new draft bill. That report I feel, should be the basis of further discussion on this subject of security of tenure for rice farmers.

I am not suggesting that the hon. Member, Mr. Robertson has no knowledge of rice farmers or landlords—it may be that I do not know as much as he does. But I have mixed with rice growers from Wakenaam to Crabwood Creek, and I have helped them against bad landlords in my time. But there are also bad tenants, and I would as the hon. Member to remember that and everyone else. Therefore in making law, the law should not be designed only to protect the tenants because there are tenants who are just as bad as the worst and most rapacious landlords. There will always be good and bad landlords and there will be always good and bad tenants.

The hon. Member Mr. Robertson chose to speak—and with these few words I am going to finish—of what the hon. Member Mr. Cummings had proposed as one of the reasons for his opposition, namely that it was legislation which showed an aggressive and totalitarian approach — I wrote those words down—as against what he said, it is necessary to trust someone. It is necessary that we all should trust one another. That is the first necessity; and it is one of the great needs of this country of ours today. But trust in one another is not going to be achieved by compulsory or dictatorial legislation.

Mr. Gajraj: We have had a very useful discussion on the Bill before this Council and probably you, Sir, would want to end it very shortly and so I shall not speak at length, although there are many points in the clauses of the Bill I can speak on but so much has been already covered. I would like to say that at the last meeting of this Council I was very pleased to extend words of congratulation to a Minister for having at short notice presented to the State Council a Bill which is designed to give relief in the case of water to areas outside the City of Georgetown. I think we all appreciated the step that had been taken. Here again is a Bill which, I learn, has been presented because there was a need for water in certain of the rice areas, but I am afraid I shall have to use other adjectives in describing this Bill, adjectives which will give quite a different description to what I expressed on the last occasion. It is my view that far from being the proper time this Bill has not only been ill-timed, not only ill-conceived but also ill-considered, in the House of Assembly in order to be sent to the State Council. I feel, Sir, that the House—I do not want to be very critical because they are partners with us in the Legislature of this Colony—is suffering from a paucity of Members who can give careful and intellectual study to measures proposed by the Government and there make changes which the ordinary

citizen must realize are necessary before such ideas can be passed into law. It is a real pity that that is so, and that lack of the requisite quality in the House makes it all the more necessary for Members of this State Council to view with greater care every bit of legislation which is passed by the House and sent to us for approval or otherwise.

I desire like other Members to offer words of congratulations to the hon. Member, Mr. Luckhoo, for having enlightened this Council so very exhaustively on the points which appear to be objectionable in this measure. I think it has made our task easier and lighter. The hon. Member, Mr. Robertson, while congratulating Mr. Luckhoo came back and said that he did present the case of the landlords very well. In this matter, as in all matters where human relations are involved, you have to consider, if we want to be democratic in outlook, both parties because wherever there is a landlord there must be tenants, and we cannot at this stage of our advancement along the road to self-government so legislate as to give the impression that we, as a Government, are merely prepared to look after in a partial manner the claims of only one party to any agreement and in doing so we exclude the rights and responsibilities of the other. I feel like my colleague, Mr. Macnie, that restrictive legislation of this kind will never make for good and harmonious relations between all the people concerned. What we want to foster is a greater degree of trust in one another. That is most necessary and essential now, and I hope that those who have the ability and who have the confidence of the masses, when they meet them, as they so often do at meetings, would try to provide them ith a pattern of thought which would ite a receptive mind for understand- heir fellow citizens a little better.

My friend, Mr. Robertson, said that he has found that some landlords, because of the increased price of rice and padi, have purchased machinery to use on their lands and as a result are forcing their tenants off the lands. I do not claim to have a knowledge of the entire area or portion of the Colony used for rice cultivation, but I do know intimately many of the areas where rice is cultivated. Although it is true that landlords who never before planted their own lands have purchased machinery and have used them, my knowledge is that they have used such machinery on lands which were not previously used for rice cultivation. A mere glance at the acreage under cultivation year after year would show that a larger area is being planted each year. That shows that if the machinery is being used it is on land not previously cultivated or on land which had been cultivated years ago and was lying idle.

There was also the question raised about the payment of rent. The hon. Member (Mr. Robertson) said that in some cases a couple of bags of padi is paid as rent. My own personal view is, that that is the best way of assessing the rent of lands which are producing crops, because it is a basis that is equitable all around. In the years that the prices are low the returns are low, but in other years when the price of the product is high then the returns would be commensurate with the increase in the value of the crop and the increased cost of maintaining the lands and preparing the lands through which they are able to produce. That is my personal opinion and, I feel, it is the most equitable form of assessment of rent of lands, and I hope the framers of the comprehensive Ordinance, which the hon. Member has promised would come before this Council, would bear that in mind.

In regard to the legal side or the legal implications of the various

[Mr. Gajraj]

clauses of this Bill, I do not think I can add more to what has been said already, except to say in different words that we seem to see in this Bill every effort being made to penalize private ownership. In spite of the fact that we have been assured—it is true the assurance is only one of words which, as a member of the community, I should accept—that there is no intention on the part of the Government to prevent the continuance of the system of private ownership of property, here it is we see that subtle steps are proposed to be taken whereby, without our realizing it, we would find that private ownership of rice lands would disappear. If our Government feel that they want to nationalize and to take over, or rather expropriate, the lands of the people who have worked hard for a long time to own them and who work them and help others by letting out the lands to them, then in all fairness to us as citizens of the country they should come straight out and say so and not use subtle and devious means whereby the same object is accomplished under a false frontage. From sub-clause (6) of clause 5 of this Bill one would begin to ask certain questions. Has a man lost all his rights and possessions? That time has not yet arrived and, as the hon. Member, Mr. Raatgever, has said, so long as the Union Jack flag flies over this country it would never be.

We hear so much about the dignity of labour, but we must also appreciate and understand that the dignity of ownership, which comes as the result of labour, must also be respected. Much as those people might say to the contrary, whatever the people of this country own has come into their possession as the result of hard work and of sacrifice. They were not gifts to them; whilst others played or slept those people toiled and slaved far into the night, and so what they own today must not be considered, as we hear so much at the street corners the suggestion being made, that it belongs to all. It is quite true what the good God gives belongs to all, but there is also this fact that so long as the individual remains an individual he must also have his share and right. There are obligations to the community which the individual has, and so long as he discharges those obligations he is entitled to the fruits of his labour. When we say "fruits of labour" we do not mean only the labour of those who may have to toil with hands in the hot sun. Labour is something which we all have to perform. As there are different forms of living so there are different forms of work. Nevertheless one has got to exert himself considerably. We cannot all be sugar planters, we cannot all plant rice. In human society there must be different categories, and legislation can never bring us down to one common level and say everyone must merely do this or that. We must have these different categories. It does not matter what form of government or the colour of the flag we have, these categories remain.

As regards the suggestion in the Bill that the Minister himself may decide whether recovery of the debt should be by parate execution or whether time should be given for payment or otherwise, I submit most firmly that such a suggestion lends itself very easily to the granting of patronage and favours, and such a thing we can label as undemocratic—a word that is so commonly used at the street corners. I do not desire to speak further because I can see very clearly that there is no need for us to decide what we should do with this Bill. Our hon. friend, Mr. Robertson, has admitted, what I myself as well as other colleagues around this table feel, that if there was an emergency when this Bill was introdu that emergency is no more by the

of God in providing the rains and by the brains of man in providing pumps. It was the duty of the producers to look into this matter, if I may remind my hon. friend.

One last word, because we might not get this opportunity again. My hon. friend (Mr. Robertson) has said that we might be surprised and regard as strange some of the laws presented by the present Government. My only comment on that is that we have been accustomed all our lives to laws being promulgated on the principles of British jurisprudence, and any law which comes within that framework would not appear strange to us. It is possible that there are other bases on which laws might be introduced, and it would be for us to look very carefully and not merely at the words of any law being introduced, but at the principle from which it stems. With those words, I wish to support the opposition to this Bill.

The President: I introduced this Bill on behalf of the Government and I had intended to defend it as best as I could, but I have been rather shattered by one of the remarks of our colleague, Mr. Robertson, who is, naturally, a supporter of the Majority Party, that remark being that the emergency in respect of which this Bill was introduced is now over. The implication of that remark is that the Bill is, therefore, no longer necessary.

Mr. Robertson: I want to correct you; Sir. I never said it was no longer necessary.

The President: What I said was that the implication of your remark was that the Bill is no longer necessary. I must say I feel somewhat the same as I suspect my good friend, Mr. Luckhoo, must sometimes feel when in another place he is defending a client and knows he has not got quite a good case but still has to try against harsh and severe opposition. As I see it, the criticisms made today can be summarized under about four heads. These are, firstly, that the powers which the Bill seeks to confer upon the District Commissioner —and the authority of the District Commissioner under these powers — would be too arbitrary. Mr. Robertson did refer to the fact that the District Commissioner, under this Bill, has to be advised by the Agricultural Officer and the District Engineer, so that, to some extent, the District Commissioner's functions in giving orders as to the work to be done in carrying out the rules of good husbandry or the rules of good estate management, are not quite so arbitrary as they might appear, since he has to be advised by these two officers.

The second point that seems to arise out of the debate is that the burden on the landlord might be too severe from the financial point of view, and more particularly because the rent of land is severely restricted and cannot be increased. Therefore, there should be no increased expenditure except it is intended that the debt of the landlord or the tenant, as the case may be, should be spread over a fairly long period at the discretion of the Minister.

The third point which was made on the subject is that parate execution is too drastic a remedy for the collection of a debt of this nature. With that I completely agree, because parate execution is only issued in this country (where it is unique) against a debtor who owes a certain kind of debt, that is to say, a debt to the Government or to a municipal or local authority, which is ascertainable by process of law, for rates or taxes—something specific, and not something which is capable of being defended at all. Consequently, one must agree

[The President]

that the use of this particular process—parate execution—at will is very severe in circumstances like these, and where the debt may be incurred in circumstances where the landlord has absolutely no say in the manner of its occurrence. That is to say, the manner of effecting the work may have been wasteful and the work itself may not have been really necessary.

The fourth point of criticism, as I understand it, was the unfettered discretion of the Minister to give time for the payment of a debt and to impose a rate of interest payable thereon, *does* offer the possibility of discrimination. Mr. Robertson spoke very strongly about that, but I do not think Mr. Luckhoo suggested that any Minister at the moment would be guilty of discrimination. What he did say was that the law, as it was laid down in this Bill does permit or offer the possibility of discrimination by the particular Minister. Those are the criticisms as I see them. I did anticipate some of these criticisms and, consequently, I went to some trouble to prepare amendments which, if this Bill goes into Committee, would provide a solution to those difficulties. It does appear to me that it is unlikely that the Bill will be given a second reading, nevertheless I do desire to mention the amendments I have referred to.

I do feel that where the District Commissioner gives an order to the landlord or tenant to do work, there should be a clause in this Bill specifying the time within which it should be done, and also that that time should not be less, in any event, than 30 days. The reason for that 30 days is that the Principal Ordinance gives a right to the tenant or landlord to whom a notice is given, to appeal, and the appeal is to be brought within 30 days. Under the present law the appeal is to the Governor, but this Bill seeks to give the Minister the duty and responsibility of hearing that appeal. I do propose that that power should remain in the hands of the Governor and that the appeal should be sent through the Minister to the Governor. In other words, the Minister should send the appeal to the Governor and the Governor's decision should remain as final under the law.

The second point which I tried to amend is this: A debt to the Colony is nearly always regarded as collectable by the Finance Department; that is to say, the Financial Secretary is really the Minister of the Department responsible for the collection of debts. Consequently, I would move an amendment which would remove from the Minister the responsibility or duty of collecting the debt, or to order parate execution, As regards parate execution, I would introduce an amendment by which it could be ordered only where time had been given to a person to pay — where a landlord or tenant had time to pay and failed to do so; and parate execution would be authorized by the Financial Secretary, and not by the Minister. Of course, it would only be exercised against a landlord and not against a tenant because, as Mr. Luckhoo has pointed out, a curious situation may otherwise arise under this Bill, where a landlord may become responsible for a debt incurred by his tenant. I feel that parate execution should be allowed against a landlord, and against a landlord only. Those are the amendments I would put before the Committee if the Bill is given a second reading

As regards clause 6, if the legal gentlemen who spoke on it are correct, I do not know what possible remedy there can be except the actual removal of the clause itself. Generally speaking, Mr. Raatgever and one other Member have suggested that this Bill is premature

and that legislation of this nature should be embodied in the general legislation which would be prepared in consequence of the report of the Select Committee.

I do not think I can say anything more at this stage. In the unlikely event of the Bill passing its second reading, I shall explain in rather more detail the amendments to which I referred just now. If the Bill is rejected it would mean that the desirable amendment to clause 3 would also fail, but I do not think it is of sufficient importance for us to pass the Bill merely to have that particular amendment appearing in clause 3. That also can wait. I propose now to put the motion that this Bill be read a second time.

Question put, the Council dividing and voting as follows:—

For:—	*Against*:—
Mr. Robertson	Mr. Raatgever
Mr. Fingall	Mr. Luckhoo
—	Mr. Macnie
2	Mr. Gajraj
	Mr. Cummings
	Dr. Knight
	—
	6

Did not Vote:— The President.

The President: I declare the motion lost. The Bill is therefore rejected. That concludes the business for today; I adjourn the Council *sine die.*