THE

PARLIAMENTARY DEDATES

O FFICIAL REPORT

[VOLUME 4]

PROCEEDING AND DEBATES OF THE THIRD SESSION OF THE NATIONAL ASSEMBLY OF THE SECOND PARLIAMENT OF GUYANA UNDER THE CONSTITUTION OF GUYANA

44th Sitting	2 p.m.	Thursday, 11th March, 1971

MEMBERS OF THE NATIONAL ASSEMBLY

Speaker

His Honour the Speaker, Mr.SaseNarain, J.P.

Members of the Government – People's National Congress

Elected Ministers

The Hon. L.F.S. Burnham, S.C.
Prime Minister **(Absent)**

Dr. the Hon. P. A. Reid,
Deputy Prime Minister and Minister of Agriculture

The Hon. M. Kasim, A.A.
Minister of Communications

The Hon. H.D. Hoyte, S.C.
Minister of Finance

The Hon. W.G. Carrington,
Minister of Labour and Social Security

The Hon. Miss. S.M. Field – Ridley,
Minister of Health

The Hon. B. Ramsaroop,
Minister of Housing and Reconstruction (Leader of the House)

The Hon. D.A. Singh
Minister of Trade

The Hon. O. E. Clarke,
Minister of Home Affairs

The Hon. C. V. Mingo
Minister of Local Government

Appointed Ministers

The Hon. S.S. Ramphal, S. C.
Attorney – General and Minister of State

The Hon. H. Green,
Minister of Works, Hydraulics and Supply

The Hon. H. O. Jack,
Minister of Mines and Forests **(Absent)**

Dr. The Hon. Sylvia Talbot, **(Absent)**
Minister of Health

Parliamentary Secretaries

Mr. J. C. Joaquin, J. P.,
Parliamentary Secretaries, Ministry of Finance

Mr. F. Duncan, J. P.,
Parliamentary Secretaries, Ministry of Agriculture

Mr. W. Haynes,
Parliamentary Secretary, Office of the Prime Minister

Mr.Salim,
Parliamentary Secretaries, Ministry of Agriculture

Mr. J. R. Thomas,
Parliamentary Secretaries, Office of the Prime Minister

Mr. C. E. Wrights, J. P.
Parliamentary Secretaries, Ministry of Works, Hydraulic and Supply

Other Members

Mr. J. N. Aaron
Miss M.M. Ackman, Government Whip
Mr.k. Bancroft
Mr. N. J. Bissember
Mr. J. Budhoo, J. P.
Mr. L. I. Chan - A – Sue
Mr. L. I. Correia
Mr. M. Corrica
Mr. E. H. A. Fowler
Mr. J.R. Jordan
Mr. S. M. Saffee
Mr. R. C. Van Sluytman
Mr. M. Zaheeruddeen. J. P.
Mrs. L. E. Willems

Members of the Opposition

People's Progressive Party

Dr. C. E. Jagan, Leader of the Opposition **(Absent)**
Mr. Ram Karren
Mr. R. Chandisingh
Dr. F. H. W. Ramsahoye, S.C.
Mr. D. C. Jagan, J. P., Deputy Speaker
Mr. E. M. G. Wilson
Me. A. M. Hamid, J. P., Opposition Whip
Mr. G. H. Lall, J. P.
Mr. N. Y. Ally
Mr. R. D. Persaud, J. P.
Mr. E. M. Stoby, J. P. **(Absent)**
Mr. R. Ally
Mr. E.L. Ambrose
Mr. L.M. Branco
Mr. Balchand Persaud **(Absent – on leave)**
Mr. BholaPersaud
Mr. I. R. Remington, J. P.

Mrs. R. P. Sahoye
Mr. V. Teekah

United Force

Mrs. E. DaSilva
Mr. M.F. Singh
Mr. J. A. Sutton

Independent

Mr. R. E. Cheeks **(Absent)**

OFFICERS

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

Deputy Clerk of the National Assembly Mr. M. B. Henry

The National Assembly met at 3 p.m.

[Mr. Speaker *in the Chair.*]

Prayers

ANNOUNCEMENTS BY THE SPEAKER

LEAVE TO MEMBERS

Mr. Speaker: leave has been granted to the hon. Member Mr. Correia from 13th March to 24th April. Leave has also been granted to the hon. Member Mr. BalchandPersaud for three months, from 23rd of February to the 22nd of May, 1971.

PRESENTATION OF PAPERS AND REPORTS

The following Papers were laid:

The following Regulations made under section 51 of the National Insurance and Social Security Act, 1969 (No. 15), on the 3rd of March, 1971 and published in the Gazette on the 6th of March, 1971:

(a) National Insurance and Social Security (Self-Employed Persons) Regulations, 1971 (No. 1);

(b) National Insurance and Social Security(Collection of Contributions – Self-Employed Persons) Regulations, 1971 (No. 2);

(c) National Insurance and Social Security(Collection of Contributions) (Amendment) Regulations, 1971 (No. 3);

(d) National Insurance and Social Security(Industrial Benefit) (Amendment) Regulations,1971 (No. 4);

(e) National Insurance and Social Security(Industrial Benefit Medical Care) (Amendment) Regulations, 1971 (No. 5);

(f) National Insurance and Social Security(Benefit) (Amendment) Regulations, 1971 (No. 6);

(g) National Insurance and Social Security(Determination of Claims and Questions) (Amendment) Regulations, 1971 (No. 7); and

(h) National Insurance and Social Security (Claims and Payments) (Amendment) Regulations, 1971 (No. 8). **[The Minister of Labour and Social Security]**

INTRODUCTION OF BILLS - FIRST READINGS

The following Bills were introduced and read the First time:

(1) Summary Jurisdiction (Magistrates) (Modification) Bill, 1971. **[The Attorney-General and Minister of State]**

(2) Exchange Control (Amendment) Bill, 1971. **[The Minister of Finance]**

PUBLIC BUSINESS

SUSPENSION OF STANDING ORDER

The Minister of Trade (Leader of the House) (Mr. Ramsaroop): Mr. Speaker, I beg to move the suspension of paragraphs (2) and (5) of Standing Order No. 46 to enable the Second Reading of the Exchange Control (Amendment) Bill, 1971 to be proceeded with at this sitti

Mr. Speaker: The hon. Member Mr. Feilden Singh.

Mr. M.F.Singh: Mr. Speaker, the United Force must again vigorouslyobject to the continuation of this practice of moving for a suspensionof the Standing Orders. This Parliament is fast becoming a Parliamentfor the suspension of Standing Orders. *[Interruption]* I am intriguedby the words and the formation of certain Members of the House, but Iwill not be deterred in my objections to this practice.

With your Honour coming to this House as a new Speaker I thought an end would havebeen put to this practice and I am surprised that it is still continuing.I vigorously urge Your Honour to assert your authority and put an end tothis. These Standing Orders were made, were

approved and were revisedby the P.N.C. Government. They were meant to be observed and they areobserved more in the breach these days. One must be alarmed at thisprevalent practice. We cannot sit idly by and allow Guyana's Parliamentto acquire the reputation of being a cowboy Parliament where motions are passed for the suspension of Standing Orders when the StandingOrders are rules and regulations made and approved by the same people whoare moving for a suspension.

If you are going to throw the Standing Orders through thewindow like that, why have them at all? This is why we must continue to object vigorously. This is not a cowboy Parliament. It has become soand one must urge the Government to desist from this practice. One must urge Yourhonour not to thrust this suspension on us. What is the calamity? What is the matter of national importance? What is the real serious business involved here? We have not been told at all. I urge Your Honour not to grant the suspension.

Mr. Speaker: Would the hon. Member Mr. Singh invite my attention to the Standing Order which gives me permission and power not to allow this Motion?

Mr. M.F. Singh: The one quoted by the Leader of the House.

Mr. Speaker: Hon. Member Mr. Singh, it seems to me that the reference you made under Standing Order No. 46 paragraphs (2) and (3) will not apply, that is, the application for the suspension. Standing Order No. 83, where the mover will seek my leave, will also not apply because notice was given on the Order Paper. I am afraid I am not in aposition to exercise my power in this instance. In these circumstances I nowpropose the question that paragraphs (2) and (3) of Standing Order Mo. 46be suspended.

Motion carried.

Mr. Speaker: Hon. Minister of Finance, will you please proceed.

The Minister of Finance (Mr. Hoyte): Mr. Speaker, this Bill is part of the package of legislation which has become necessary as a result of Government's decision to nationalise the Demerara Bauxite Company. Hence the urgency and hence the request by the hon. Leader of the House for a suspension of the Standing Orders. Although the provisions of the Bill are passed in general terms, it is not the intention to exercise the powers which they seek to confer upon the relevant Minister, that is, the Minister of Finance, other than in relation to the Bauxite industry. The legislation therefore aimed particularly at that industry.

The Bill seeks to achieve some very simple but essential objectives:First of all, to ensure that the foreign exchange which is earned by the export of bauxite acquires to the benefit of the national economy, and to this end, the Bill seeks to ensure that the proceeds of the sale of bauxite exports are repatriated forthwith to Guyana and are deposited with authorised dealer, secondly, that when the proceeds are repatriated theyare not allowed to leave Guyana without the permission of the Minister.I should add a qualification to the last statement because, as it will be observed, the Bill exempts from the restriction, current international transactions in accordance with Guyana's obligations to the International Monetary Fund.

It is perhaps important to explain that the powers which this Bill seeks to confer will be supplemented by the issue of the necessary directions under the legislation as amended and also by the promulgation of at least one Order under provisions of the Principal legislation. For

these reasons, which are urgent and important in the interest of thenational economy, I commend this Bill to this honourable house and move that it be read a Second time.

Question proposed, put and agreed to

Bill read a Second time.

Assembly in Committee.

Clause 1, agreed to and ordered to stand part of the Bill.

Clause 2

Mr. Hoyte: May I respectfully propose a slight textual amendment to paragraph (a) of clause 2 by substituting the words "body corporate" for the word "company" when it appears in the new paragraph (c).

Amendment put, and agreed to.

Clause 2, as amended, agreed to and ordered to stand part of the Bill.

Assembly resumed.

Bill reported with an Amendment, read the Third time and passed

SUSPENSION OF STANDING ORDER

Mr. Ramsaroop: I beg to move the suspension of paragraphs (2) and (3) of Standing Order No. 46 to enable the Second Reading of the SummaryJurisdiction (Magistrates) (Modification) Bill, 1971 to be proceeded withat this sitting.

Mr. Jagan: Your honour, when the previous Bill came before the House I did not protest because I thought it was a matter which should be gone through being a matter of urgency. In this case I would say, first of all, speaking generally on the Motion, that the House should not suppothis Motion having regard to the fact that the Government must have been aware of the factawarethat this measure would have been required by the Government to be passed. The Bill should have been introduced before, the Government wanted it to be passed today, or if that is not so, then the Standing Order should not be suspended.

In any case I should like also to refer you to Standing Order 83 which Your Honour has just referred to, which reads as follows:

> "Any one or more of these Standing Orders may, after notice or with the leave of the Speaker, be suspended on a motion made by a Member at any sitting."

The words used there is that "any Standing Order may, after notice."My submission is that word "notice" means "notice of a Motion". Standing Order 23 deals with Period of Notice and the word "notice" only is used. Also if one looks at Standing Order 24 which deals withExemptions from Notice one will find that the word "notice" is also used.Inthe body of the Standing Orders there is reference to "Notice of Motions". Mysubmission is that in Standing Order 83 where the word "notice" is used, it must be read as "notice of a Motion" which would require the Governmentto give notice of a Motion if it does not wish to have the leave of the Speaker. In this case I would say there is no proper notice of a motion. If I am correct I would therefore ask Your Honour not toexercise your discretion in this case in favour of granting a suspension of the Standing Order.

If, however, I am wrong and Your Honour feels what is printed in the Order paper is as contemplated in Standing Order 83, I would say in any case the Motion cannot be entertained. Because if you look at the Order Paper you will see that the Minister proposes to move a suspension of paragraphs (2) and (3) etc. And when one looks to see who is the Minister

dealing with this Bill it will be seen that it is the Attorney General and Minister of State. My submission therefore is that if we have to interpret No. 83 strictly and we say that this is the notice as contemplated in that Standing Order then, according to the Order Paper, it is the Attorney-General and Minister of State who can move the Motion and the Motion that has been moved by my hon. and learned Friend, the Leader of the House, cannot be entertained.

Mr. M.F. Singh *rose* –

Mr. Speaker: Hon. Member Mr. Jagan, may I have your comments on the proviso to paragraph (1) of Standing Order 29:

Mr. Jagan: This, in my submission, if you are applying it, would mean that my first submission in relation to Standing Order 83 would be correct. If you use that, the word "notice" in Standing Order 83 means "notice of a motion." If that is so, what is printed on the Order Paper is not notice of a motion and therefore Standing Order 29 would not apply. Your Honour seems to agree with my submission that when they use the word "notice" in No. 83 it mustmean "notice of a motion", in which case there is no notice of any motion. This is only the Minister saying that it is intended to ask that the Standing Orders be suspended, but that is not a motion.

Mr. Speaker: The hon. Member Mr. Singh.

Mr. M.F. Singh: Mr. Speaker, I will continue to voice the objection of the United Force to this practice of asking for a suspension of the Standing Orders. I want to support very strongly the arguments of my hon. and learned Friend Mr. Jagan on this point. We all know that it is the practice for notice of a motion to be circulated to members. In this case that has not been done. That has always been done in the past. *[Interruption]*

Mr. Speaker: Please proceed.

Mr. Singh: We all know that notice of a Motion is circulated to Members. That is why I want to support the arguments of my hon. and learned. It is stated in the Standing Orders quite clearly that three clear days must elapse between the First and the Second readings. What is so important in this case? What is such a matter of calamity that the Government seeks the suspension of the Standing Orders? I was here in December last year when the hon. Member Mr. Reepu Daman Persaud talked about the backlog of cases in the Magistrates' courts. The hon. Minister said, "No, that is not so." Surely the Government should have been aware of any necessity to come to Parliament to give attention to the situation. Why this indecent haste?

We were assured in December that there was no urgency, that everything was proceeding quite orderly and well, that everything was proceeding satisfactorily. Suddenly we are being told that there is a calamity. Or was it that Parliament was not being told the truth in December when the hon. Member Mr. Reepu Daman Persaud raised the matter?Is it that someone was being dishonest to Parliament? Why then on this occasion there is such indecent haste?This is why I would urge Your Honour not to agree to the suspension of the Standing Orders, either as a matter of discretion on Your Honour's part or by virtue of the argument raised in respect of the Motion having been improperly moved or having necessarily to be circulated to Members.

Mr. Speaker: Hon. Members, I am satisfied that the Motion is properly before the House. I will now put the Question.

Question put.

Assembly divided: Ayes 29, Noes 19 as follows:

Ayes	**Noes**
Mrs. Willems	Mr. Sutton
Mr. Zaheeruddeen	Mr. M.F. Singh
Mr. Van Sluytman	Mrs. DaSilva

Mr. Saffee			Mr. Teekah		
Mr. Jordan			Mrs. Sahoye		
Mr. Fowler			Mr. Remington		
Mr. Corrica			Mr. Bhola Persaud		
Mr. Correia			Mrs. Branco		
Mr. Chan-A-Sue			Mr. Ambrose		
Mr. Budhoo			Mr. R. Ally		
Mr. Bissember			Mr. R.D. Persaud		
Mr. Brancroft			Mr. M.Y. Ally		
Miss Ackman			Mr. Lall		
Mr. Aaron			Mr. Hamid		
Mr. Wrights			Mr. Wilson		
Mr. Thomas			Mr. D.C. Jagan		
Mr. Salim			Mr. Ramsahoye		
Mr. Haynes			Mr. Chandisingh		
Mr. Haynes			Mr. Ram Karran	-	19
Mr. Duncan					
Mr. Joaquin					
Mr. Mingo					
Mr. Clarke					
Mr. D.A. Singh					
Mr. Ramsaroop					
Miss Field-Ridley					
Mr. Carrington					
Mr. Hoyte					
Mr. Kasim					
Dr. Reid	-	29			

Motion carried.

Mr. Speaker: The hon. Attorney-General and Minister of State.

BILL- SECOND AND THIRD READINGS

SUMMARY JURISDICTION (MAGISTRATES) (MODIFICATION) BILL

TheAttorney-General and Minister of State (Mr. Ramphal): The Rent Restriction (Amendment) Bill, 1969,eventually became an Act on the 31st of December, 1969 and came into operation on the 1st January, 1970. It was a measure that brought into force a whole range of entirely new arrangements with regard to the assessment of rented premises. In particular, it

introduced a new schemeof mandatory assessment at the instance of landlords imposing quite severe penalties if there was any breach of the obligations to secure assessment imposed under the legislation. The deadlines that were imposed for securing these assessments were themselves quite stringent. For example, with regard to what I might describe as post – 1964 premises, that is, premises that were either erected for the first time or reconstructed subsequent to 1964 it was required that the assessments be sought, that is, applications be made before the end of 1970.

In other cases the applications had to be filed on a change of tenancy or in the case of new premises, when a tenancy arose in the first instance. Clearly this was going to impose additional burdens on the courts of summary jurisdiction that have exercised the powers of rent assessment as part of the body of summary jurisdiction. With this in view, the Government took steps to establish a permanent assessment court, with a magistrate whose full-time duties in Georgetown would be the making of assessments pursuant to applications under the legislation.

It was clearly impossible to forecast with precision the volume of applications that would have been forthcoming because there was no way of adequate calculating the number of applications that had been made over the very many years that the legislation had been in operation and, indeed, for a while it seemed that the arrangements that had been made would, in fact, have been sufficient.

For example, by the beginning of September, 1970, after the legislation had been in force for nine months, 1,500 applications had been filed which was not in all the circumstances a phenomenal figure or a number that ought to have staggered the capacity of arrangements then in operation. Between the beginning of September 1970 and the end of the year the Ministry of Housing took steps to alert the public to the implications of the legislation, to remind tenants of their rights, to remind landlords of their obligations and, in the latter cases, to remind all concerned of the severe penalties involved. The result of that notification was dramatic. Between the beginning of September 1970 and the 31st of October, 1970 within the space of two months the number of applications rose steadily, they rose from 1,500 to 2,103 and by the end of December, when the notification had its full impact on the community, the volume stood at 11,500 so that in the last two months of the year, just before the deadline was about to be reached, something in the nature of 9,000 applications were filed.

In January of 1971 the number of applications declined equally remarkably. In January, 700 applications were filed and in February of this year less than 300 applications were filled. In short, what happened was that the requirements of the legislation, which made themselves felt at the end of 1970, brought forth an unusual and in some ways a spectacular amount of applications. The situation we now have is that something in the nature of 12,000 applications for assessment stand to he dealt with by the court.

There are two factors that emerge quite clearly. One is that this is an unusual and in no sense a recurrent situation. It arose out of the legislation and because of the deadline that was imposed. The second is that it is clearly in the public interest that extraordinary steps be taken to have these applications dealt with forthwith.

On the basis of these considerations the Government has decided that steps should be taken now to permit these applications to be cleared. How are they to be dealt with? This is not a case of steadily increasing new jurisdiction, so that capitalexpenditure in the form of new courts and court buildings is clearly outof the question.

What is needed is a crash operation to deal with this particular volume of arrears. The Ministry of Housing has proposed an arrangement under which we will make use of our available resources and material in terms of court room facilities and by inviting the cooperation of the public and of the profession to enable these applications to be dealt with at special sittings of the Magistrates' Courts held in the evening. It is in every sense a community effort to deal with a community problem.

I am glad to say that the legal profession, at least that section of it which is represented by the recognised professional bodies, has pledged its full co-operation with the Government in the execution of this programme. I have had the opportunity only a few days ago of discussing the legislation and the arrangements with the President and the Executive of the Bar Association and

I have their authority to say that they will co-operate fully with the Government and the community in implementing it.

The arrangements that are envisaged - and one of these will call,Mr. Speaker, for a very minor amendment to the Bill as printed – are these: That using the existing building that houses the Magistrates' Court building and using the court space of the High Courts on every evening during the week, between Monday and Thursday, there will be sitting 15 courts of summary jurisdiction exercising the powers of a magistrate under the rent assessment legislation.They will be sitting between the hours of 6 p.m. and 9 p.m.

It had originally been thought that the appropriate hours might be 5 p.m. to 8 p.m. but after discussion with the Bar Association it has been agreed that the more convenient time for all concerned, litigants as well as the professional advisors involved, would be 6 to 9 in the evening. Therefore, I shall in due course, in committee, move an amendment to substitute 9 for 8 in the relevant clause of the legislation.

It is our hope to recruit for the Georgetown area a total of 30 magistrates who will sit two nights a week in court session, that is, each of them will sit two nights a week in court session and spend one night involved in the inspection of premises. So that there will be sitting at any one time, as I said a little earlier, 15 courts. It is hoped that on the basis of this crash operation that we should be able to dispose of all these applications within the nine months remaining in 1971. I think if we can do this it will have more than justified the effort involved in these special arrangements.

There is only one other word I should like to say to remove doubts that may have arisen with regard to the first appointments. All of the persons who have been appointed in the first instance are members of the legal profession who are otherwise engaged in Government service. These are, as will be obvious to members, part-time appointments. Part-time appointments to judicial officers raise special problems with regard to practising members of

the profession. Clearly it would be quite wrong for a person who practises during the day in the rent assessment court to sit as a magistrate on rent assessment cases in the evening.

This is a matter that I have also discussed with the Bar Association with whom I share the general view that arrangements might be made so as not to disqualify members of the practicing Bar altogether from appointment, but special arrangements will clearly have to be made in these cases. The arrangements we envisage will involve applicants for these appointments from the Bar being confined to those persons whose practice does not normally involve rent assessment work and who, in any event, will give appropriate undertakings to the Chief Justice that they will not, so long as they hold appointment of this nature indulge in any professional advice or practice which will give rise to a conflict of responsibility between duty to client and duty to the State.

We hope, in due course, to put these arrangements into operation and as a result to make it possible for appointments to be offered to any member of the profession otherwise qualified for appointment who will be willing to serve in this capacity.

I might add, Mr. Speaker, that it is not inconceivable that these arrangements may ultimately have to be extended to areas other than Georgetown. My colleague, the Minister of Housing, is already examining the situation in other urban areas in New Amsterdam and at Linden and, indeed, in certain ruralsuch asthe West Demerara district. So that there is more that we will have todo to deal with this peculiar problem and there are more appointments that have to be made.

It is our undertaking that we shall continue to consult with the Bar Association which, as I said, is the only professional body that we recognise as having standing in this matter and on the solicitous side, with the Law Society.

Question proposed.

Mr. Speaker: The hon. Member Mr. Jagan.

Mr. Jagan: Your honour, one has to sympathise with the Government to a certain extent for having found itself in the ness that it has found itself in today. I remember that last year my colleague, the hon. Member Mr. Reepu Daman Persaud, raised a question in this House about the number of applications that should be dealt with by the courts in Georgetown, and I think my hon. and learned Friend the Minister of Housing denied that there was any backlog or any large number of applications to be dealt with.

It would seem, from what my hon. learned and Friend the Attorney-General has said, that up to the beginning of November there were about 2,000 applications which were not heard, because he said there were 9,000 that came in for the last two months, so over 2,000 applications were there before November. And yet nothing was done. We appreciate that in many cases the expeditious hearing of these applications may be for the benefit of the tenants because landlords are charging exorbitant rents, but we feel that the way the Government is going about this matter is not correct.

To cite an example of how the Government is sleeping on this question of rent assessment. In the same Bill that was referred to by my hon. and learned Friend the Attorney-General, in Act No. 51 of 1969, provision ismade also for the appointment of advisory committees which would have to deal with assessments that are made by these magistrates ~~as~~ rent assessors. If there is an increase of rental, that increase cannot of itself have any effect unless it is considered by an advisory Committee. Strange to say that so far no committee has been appointed. It could mean that although we are now forcing people with the inconvenience - as I shall deal with in a minute – in the hearing of these applications nothing can be done, even if the magistrates hear the applications when there is an increase of the rental, because there is no committee to consider those increases. That exercise would, therefore, a waste of time for the time being.

My hon. and learned Friend referred to the Bar Association. There was a report in the newspapers, which has not been denied. One knows that the President of that Association would surely deny something that was printed if it was not correct. The President of that Association in a matter of two days gave two conflicting reports of what shouldhave been done, no doubt because of direction. Eventually one saw a release in the newspapers which came from the Bar Association that the President of the Association was also against sitting from 8 to 9 o' clock, which was a compulsory sitting.

I understand from what my hon. learned and Friend has said that he had a meeting with the President of the Bar Association and the Executive Committee of that Association. One does not know. I have no reason to doubt what my Friend has said, but there seems to be some confusion in the rank of the Guyana- Bar Association, no doubt because the body itself is made up of Government members and officials. That is why there is another Association representing the majority of people practising in this country and that Association came out on more than one occasion against these measures. One has to consider why the Association of Legal Practitioners opposed this measure. My hon. and learned Friend was away when there was this row in the Guyana Bar Association. I think that my hon. and learned and hon. Friend Dr. Shahabuddeen was there

Your honour, what one has to consider is the question of this night sitting. According to unlearned Friend it has to be amended now from 6 to 9. This would be even worse. First of all, let us take the case of litigants, tenants and so on. [**Mr. Ramphal:** "Where is your sense of community service?"] They will find it far more inconvenient to attend courts in the evening when they have to prepare meals for their children and look after their children who will be home from school. It would be far easier for litigants to appear in court during the day.

Apart from that, the barristers themselves and legal practitioners as awhole have stated that the period within which they would be forced tosit would be very inconvenient. One can imagine what will happen totenants, because it is the tenants who may not be able to afford the high fees that may be charged by practitioners who have to appear in court inthe evening. Surely, one must expect that the practitioner wouldcharge more money to represent clients if

they have to go in the evening.The landlords I presume could afford to pay, but the people who may notbe able to pay the extra fee for late sitting to retain counsel orsolicitor would be the tenant. Therefore one may find that a tenantmay be unrepresented at a hearing which would be to his detriment, The good that we are trying to do for the tenant, when one considers the effect of it, if they are not represented, may be of no effect whatsoever.

The mess which the Government has found itself in, that something be done with these applications so that they may be heard expeditiously. My hon. and learned Friend referred to the factthat about 30 magistrates were appointed for the Georgetown area – I believe that the names of those magistrates were published in last Saturday's Gazette. I was one of the persons who had previously opposed the measure whereby personswith only three years' experience could be appointed in the Attorneys-General's Chambers and in the Office of the Public Prosecution. Previously the rule was that the person must have three years practice at the Bar. I opposed that because I said that persons sitting at the Bar for three years may not have as much experience as a person who may have practiced for a year only. Since then the method has been changed and now I understand people are employed in the office of the Director of Public Prosecutions and the Attorney-General's Chambers without evenany experience. State Counsel who have been appointed without any practice at the Bar are juniors to other State Counsel. One could see, therefore, that they would gain experience incourt practice by being- juniors to other counsel in the office of the Director of Public Prosecution. One finds this also in the Attorney-General's Chambers where young barristers who have just qualify and who are appointed in the Attorney-General's Chambers are juniors to other senior counsel.

But when one looks at the list of magistrates who were appointed to deal with these applications, one would see that in many cases the persons have had no practice whatsoever at the Bar. In one or two cases I think - I do not wish to refer to the names - persons have to perform duties as clerks in the Government Departments although they are qualified as barristers but they have no experience whatsoever. Your honour will realise from your vast experience in the Courts

That rent restriction and assessment matters are of a very technical nature. Unlesspersons have some experience in the practice of these matters great injustice may be done not only to tenants but also to the landlords. One can imagine what may happen. There is now right of appeal from the magistrate to the full court and to the Court of Appeal so if one has inexperienced persons to deal with these matters one can imagine how many appeals there will be. [**Mr. Ramphal:** "What do you propose?"]

Our proposals are that the Government should appoint full-time magistrates and people who have experience in this field to deal with these applications. In doing that we would get rid of the opposition of people who may not want to represent clients at inconvenient hours. One can seethe difficulty: A legal practitioner normally goes to work at 7 o' clock as Your Honour usually does or at 8 o' clock until 4, 4.30 or 5.00o'clock. Your Honour can imagine the strain on those persons who practice in the court dealing with rent assessment and possession matters. If they have to be in the court the whole day from 8 to 4 then go home and return at 6 to work until 9one can imagine the strain on those practitioners.

So I hope therefore that my hon. and learned Friend does not think that the opposition from the legal practitioners is really only from practitioners who belong to the Association of Legal Practitioners. This is an opposition from the Bar itself and it is only because the Guyana Bar Association, in my view, is under certain pressure it is not coming out openly – *[Interruption]*

I agree with my learned Friend that it may involve expense to find accommodation. [Interruption] I do not know but there may be some problem in that. In this case, however, understand that the Government has set aside $66,000 to deal with these arrears, to pay additional magistrates. I feel that that same amount could be used to appoint people to do fulltime jobs in the

normal hours and it could be done to the benefit not only of the tenants or the landlords, but to the benefit of the community as a whole.

I understand that there is certain briefing that has been passed on to the magistrates who were selected. I have no quarrel about these magistrates, they are people of intelligence, they are qualified as barristers but my contention is that they do not have the experience in this field which is a very technical one.

Therefore the government should not force them because there are many barristers who were selected among these 30 who have indicated to the Government that they do not wish to be appointed to do this job. But they were forced to do it. One can imagine if the people who were recruiting them asked them to be appointed to do these jobs they being Government Servants might find it very difficult to refuse. I understand they are paid $100 a month for these extra sittings and one can understand how much tax would go from that $100. Quite a few of them are bachelors. They are very young people who may want to devote some of these evenings at home. One has to consider also the welfare of these magistrates who are forced to accept these jobs.

Although the Government may pass the measure – it has the numbers – it should consider whether my proposal would not be beneficial, not only to the community but to the magistrates themselves, having regard to the fact that the magistrates do not have experience in this field and a number of appeals may be ... The same magistrates might be able to do other types of magisterial jobs in the country. For instance, they could do criminal cases on, other civil matters. I know there is a magistrate who was recruited from the Court of Appeal and prior to that the Clerk to the Chancellor was also recruited and di his job very efficiently but not in this field. The hon. Minister of Housing is apparently aware of the person I am speaking about. Even that

person would wish not to sit in the evening if he could help it. Maybe what my hon. and learned Friend should consider is that even if a few other magistrates are recruited who do not have the experience in this field they could, do other jobs which are not specialist jobs and other magistrates elsewhere who have the experience on this field could be taken to do this work. There are magistrates and other practitioners who could be found and who would be able to do the jobs quite efficiently without hardship to anyone.

I therefore would hope that the government would reconsider some of these matter because it could be very inconvenient for people to work during the whole day and then attend court again in the evening. Secondly, I hope that the Government would look into the question of appointing advisory committees as early as possible, if not, the whole exercise would be a waste of time.

My learned Friend, the hon. Attorney-General said that we have to take extraordinary steps. I agree. Maybe steps should be taken which can be regarded as extraordinary by appointing magistrates to do full-time jobs. I am sure that instead of allocating an amount to pay the additional magistrates who would not be magistrates by day but would be magistrates from 6 o' clock to 9 o'clock in the evening – which would be a very peculiar situation – persons could be found to do the job on a full-time basis.

I am sure my hon. and learned Friend the Attorney-General is not aware of this, but there are many court rooms in Georgetown which are not fully occupied. In the Resaul Maraj buildings there are about four to five courts and some time at half past nine no court is in session. I think that if the members of the Government looked they would see that there could be available places where full-time magistrates could be employed. The Government would not have to go into this extra expense to which the Minister has referre

So I hope, in closing, that the Government would not pursue this measure but even if it feels that the measure should be passed as printed then the Government should reconsider the

question of inconvenience to the tenants and the practitioners and to the public as a whole and the extra fee that would be payable by tenants, as I have stated earlier.

Mr. Speaker: The hon. Member Mr. Feilden Singh.

Mr. M.F. Singh: Mr. Speaker, the necessity for this bill seems to be the Government's ignorance and incompetence in dealing with the housing situation generally in Guyana. Rent restriction, Mr. Speaker, was first introduced in Guyana in 1941 as a war-time measure. The principal ordinance is Ordinance No. 23 of 1941. Since then there have been succeeding amendments modifying and extending this ordinance and, indeed, the Principal Ordinance itself was subject to extension year after year for 30 years now.

Then in December 1969 by Ordinance No. 32 of 1969 the Principal Ordinance was again amended. This time it was given a new name. by this Act serious penalties of fines and imprisonment were imposed on landlords if they did not apply for Assessment of those rented premises which were constructed after the 31st December, 1964 or reconstructed after 31st December, 1964. One year was allowed within which they must make their applications for assessment so that after more than one year. It has become apparent that the government does not have the men or the machinery to implement those proposals which it made in the 1969 legislation. So what is it doing now? It is attempting to tamper with another piece of legislation.

This new Ordinance, Summary (Jurisdiction) (Magistrates) Ordinance, Chapter 12, is being amended to get the Government out of its muddle.

This muddle is, in fact, a mess at the present moment because within the past twelv3 days, landlords and tenants have been summoned on two occasions to attend court in Georgetown at

five o'clock although their proposed sittings were, in fact, in contravention of the existing law. Over 200 persons attended on the 1st and 8th of March only to be told that they must return within a week's time. Quite justifiably these Guyanese gave bent to their feelings in typical Guyanese fashion. They vented their objection to this sort of thing.

By virtue of this Bill before the House, Magistrates in Georgetown who could formerly sit only between nine and four o'clock, except with permission, now have their hours of sitting extended as in the bill and in accordance with the amendment which the hon. Minister has indicated in order to hear applications under the Rent Control Bill. This step, Mr. Speaker, would not have been necessary had it been realized by the Minister at the time that there were just not enough magistrates to deal with the applications which would flow from that 1969 legislation.

I submit that if three competent experienced magistrates had been appointed after the enactment of the legislation to deal with the applications during the normal working hours, Government would not have found itself in the dilemma that it finds itself in today, fourteen months after that legislation was passed, fourteen months after the deadline, fourteen months after the start of the applications coming in to the Government under the legislation.

I sat in Parliament here in December when Mr. Reepu Daman Persaud drew the Minister's attention and the Government's attention to the alarming number of applications which had been filed in the Magistrates' Court. The hon. Minister sitting in his seat did deny that there was any cause for alarm. Now it is quite apparent that there was a lot of cause for alarm. This Amendment would not have been necessary at all, had the Government had proper consultation and sought the advice at the proper time. Also had it indeed recognized what everybody recognized that the machinery at that time was just not existing to deal with applications which would necessarily have flowed from the 1969 legislation.

Now this Bill is necessary in order to appoint twelve State Counsel, Legal Advisers and/or prosecutors as I understand it, to act as magistrates in the evening hours. I think some people have a good term for it: "moonlighting" they call it; they supplement their ordinary, normal daily salary. These persons in their normal hours of duty, eight o'clock to four o'clock, come under the control and the discipline of the Public Service Commission and/or the Public Service Ministry. They are members of the Executive; and in Guyana, there is a clear differentiation of functions. There is the doctrine of the separation of powers: the Executive, the Legislature and the Judiciary. What are you doing there? This is a serious encroachment of this principle where you are taking members of the executive who are executive member from 8 to 11. What are they now turned into? They are turned into members of the Judiciary.

These are executive officers encroaching on the Judiciary. This is a serious fundamental matter. Let us understand that if one of these part-time magistrates, in his normal duties as a member of the Executive, displeases the Executive he could be dismissed from his duties. Automatically his part-time appointment as Magistrate would also come to an end. And this is where this dual function of Executive officers and magistrate is against both the spirit and the intention of our Constitution. Magistrates under the constitution are intended to carry out the duties which would normally be carried out by magistrates, not to be members of the Executive during the day and members of the Judiciary during the night. The hon. and learned Attorney-General must realize that we in Guyana operate under the clear system of the doctrine of the separation of power: legislature, Executive and Judiciary. This is fundamental here and what are we doing? We are taking members of the Executive and putting them into the Judiciary while still keeping them in the Executive.

It is no justification to say that this is a temporary or an emergency measure. After all, the Principal Ordinance has been extended year after year for the last thirteen years. We are running a serious risk by allowing this encroachment on the Judiciary. If we allow it on this

occasion what is to prevent us from allowing it on other occasions so that the thing will go on and on? Where will be end? By having, perhaps, no demarcation between the Executive and the Judiciary.

I want seriously to urge the hon. Attorney-General to reconsider this very carefully. Surely to have full-time magistrates, as suggested by my hon. and learned Friend Mr. Derek Jagan, is the answer and not this serious risk we are running – this intermixing of the powers of the Judiciary and the Executive.

I do not think people realize it but the Government itself is a tenant in respect of its very courts. Wharton Building and Maraj Building house several of the Government Courts, and the landlords of these premises are bound by the law to make application for the assessment of these premises. There are at least seven courts in respect of which applications would be necessary. I ask the question: Who would try these applications? The magistrates presiding in the courts? Or would it be these new part-time magistrates who, advise and prosecute for the Government and during the night what? Sit in judgement! During the day they are advising and prosecuting for the Government and during the night what will they be doing? Exercising jurisdiction over an application by a landlord in respect of a government Court? Surely, justice must appear to be done and it will not appear to be done in a case in which a pet-time magistrate during the day is called upon to prosecute and advise the government as a member of the Executive.

This is an ancillary point: it may well be that some of these same part-time magistrates have been involved in the drafting of the 1969 legislation under which these applications now have come. What happens here? They may be prepared to advise the Government in respect of Act No. 31 of 1969 and now they are being called upon to interpret the same Act that they may well have advised the Government on. This must cut across a fundamental principle of justice.

Before 1970 a rent assessor was considered, as my hon. and learned Friend Mr. Derek Jagan said, to be specially appointed by reason of his knowledge and experience in this highly specialized and technical field of rent assessment. A rent assessor was considered to be specially appointed – and the complexities of Act No. 31 of 1969 make this branch of the law even more

technical and specialized. Now what are we doing? We are taking people with very little, if any, experience in this specialized branch of the law and, as it were, baptizing them and making them experts in this branch of the law. Surely in this case one should have due regard for the rights of landlords and tenants. One should recognize that this is a specialized branch of the law and one should pay due attention to this in respect of appointments of people to adjudicate in this branch of the law.

The situation is further aggravated by a report in which it is alleged that the hon. Minister of Housing said that it is not necessary for the landlord or the tenant to be represented by a lawyer. This is what is alleged. But yet the hon. Minister himself in his own application as a landlord before the court, saw it fit and, indeed, necessary to have two lawyers, Mr. McKay and Mr. Moore. What is really happening? Surely the public are being misled in this case. First, they are told that they do not need to have a lawyer and secondly, you are putting inexperienced persons to work at night. This shows a lack of appreciation on the part of the Government for the rights of both the landlord and the tenant.

This smacks of a system whereby the applications are being written off. This is production line justice. You are dispensing with the applications as fast as possible. This is what it appears to us to be like. All you are doing is making sure that you get rid of this backlog of work as fast as possible. As I said, "production-line justice" is probably an apt term to apply to what the Government proposes to do in this case. This will surely lead to more appeals. There will be many more appeals with this state of affairs. What are you going to do then?

Will the next bit of legislation to come before this House be legislation to extend the hours of sitting of the judges and to appoint part-time judges to hear the appeals? Will it be judges who are part-time Government officers? Will that be the next proposal of the Government? Is it the proposal of the Government to appoint civil servants as part-time judges to hear the appeals which will come? Is that going to be the next step? Surely this gives us a lot of cause for alarm. Probably an ancillary point is that it is inopportune at this time when the Government is contemplating a review and a nationalization of the working hours for the entire nation. It is inopportune at this time to be talking about moonlight sittings of the Court.

Finally, the Government must be made to realize that the imposition of severe penalties, the extension of the hours of work of the magistrates and the appointment of more magistrates can never solve the problem of housing. What is the Government doing to encourage the poor man to own his own home? What is the Government doing in respect of helping the building of houses by the private sector? The Government is doing very little in this respect. What I want to tell the Government is that what is needed is more housing and less legislation.

Mr. Speaker: Will the hon. Attorney-General and Minister of State repl

The Attorney-General (Mr. Ramphal) (replying): Mr. Speaker, I shall be very brief in my reply. I am a little surprised that my hon. and learned Friends – both of the gentlemen who spoke were hon. and learned – should have chosen to found their objections to the legislation on the ground that they advised. My hon. and learned Friend Mr. Jagan, the deputy Speaker, advanced arguments against the scheme envisaged which were inconsistent in their nature and which in no sense attempt to meet the community situation with which we are dealing.

I am a little surprised that in 1971 anyone in this House should find it strange that arrangements could be made for matters of the kind with which we are dealing, the assessment of the proper rent that a tenant will pay for the house in which he is living, to be dealt with between the hours of 6 and 9 o'clock in the evening. I wonder if they have stopped to reflect on the way jurisdictions are developing all over the world, in the East and in the West, with family courts exercising domestic jurisdiction, sitting in the hours of the day when people are away from work, in the hours of the early evening when those most closely involved in the issue can be present in the courts and can participate in the proceedings. This is something that is happening in the United States; it is happening in Africa, and yet hon. Members opposite seem to find something fundamentally objectionable in what they describe as "moonlight" sittings.

There are activities of a serious nature that can and should be conducted in these hours when we can maximize the facilities that we have. The worse aspect of these objections is that they fail to put forward rational alternatives. We are dealing with a situation where something like 12,000 applications have to be dealt with in one year. A situation that is not recurring, that

arose out of a particular set of circumstances and a particular deadline and all that could be advanced by way of criticism is that the Government should establish new courts and appoint full-time magistrates. They propose, in short, that for the ten months of 1971 the Government should establish, let us say, twenty new Magistrates' Courts, twenty buildings, twenty full-time magistrates, clerks, bailiffs, all that go along with the jurisdiction of a magistrate and all this should be established and then dismantled when the problem that we are faced with has been resolved.

The Government is always willing to listen to constructive proposals but when my hon. and learned Friend Mr. Feildensingh attempts to raise constitutional issues out of this, we really wander into fields that are very far distant from the matters with which we are dealing. He talks about the doctrine of the separation of powers and about encroachments on the competence and independence of the Judiciary through the Executive. This is not a case in which a member of the Executive is sitting to adjudicate on a matter between the State and the citizen. This is a situation in which a professional is sitting to determine an issue as between two citizens. It is not a matter that concerns the State in a State interest in which the State is opposed to a citizen's rights. This is not the traditional, the classical situation of a member of the Judiciary having to strike a balance between the interest of the State and the interest of the individual. And I find it difficult to believe that the hon. and learned Members who spoke could seriously believe that there is any possibility of an encroachment upon Constitutional principles here involved.

I have already explained that we hope to recruit additional magistrates from wherever we can recruit them whether they be practicing at the Bar or government employees.

I should like hon. members to join with us in approaching this as a community effort. One of the most heartening things in the last two weeks has been an indication that was given by a qualified lawyers, who is neither in the Government Service nor in private practice, that he was willing to perform these functions as a magistrate without remuneration as a community effort in courts sittings in the evening. It is more of that type of approach that we want, not objections that are founded on the convenience of counsel, not objections that are founded on the platform of organisations struggling to find recognition. And I was a little surprised that my hon. and

learned Friend, Mr. Jagan, should have held the brief for the particular organisation that he did, particularly since that organisation's relationship to the Bar Association is as the United Force to the P.P.P., a fragmentary and transient thing.

I have already indicated that to meet the legitimate proposals put forward by the Bar Association the hours are going to be 6 p.m. to 9 p.m. and I think this will be more helpful to the community, more helpful to all those involved in the working of these courts. [Applause]

Question put, and agreed to.

Bill read a Second time.

Assembly in Committee

Clause 1, agreed to and ordered to stand part of the bill.

Clause 2

Mr. Jagan: I just wish to state that in my Amendment I do not only take into account practitioners as I stated during the Second Reading of the Bill but the litigants themselves who will be very inconvenienced in having to attend court between 6 p.m. and 9 p.m. My hon. and learned Friend apparently did not hear when I said that my concern was also in respect of the parties who would have to attend courts and it was not only my concern with respect to the legal advisers. Having regard to what I said during the Second Reading hope the Government will accept my amendment.

Amendment proposed.

Mr. Ramphal: Mr. Chairman, the Amendment quite clearly is unacceptable. What the Amendment seeks to do is to provide that a matter could only be heard after 4 o'clock with the consent of both parties. In other words, it seeks to abrogate the whole jurisdiction of the evening sitting for which provision is made in the legislation.

Mr. Jagan: Mr. Chairman, I do not agree with my hon. and learned Friend because his proposed Amendment is that you would only sit until 9 p.m. whereas my Amendment is that you can sit beyond 9 p.m. with the consent of the parties.

Mr. Ramphal: I beg to move that for the word "eight" appearing in paragraphs (b) and (c) of the new subsection (2) of section 46 sought to be introduced by clause 2 of the bill there be substituted the word "nine".

Amendment proposed.

Mr. Jagan: My hon. and learned Friend said during the Second Reading when he was moving the Bill that a sitting would be from 6 p.m. to 9 p.m. This Amendment, by substituting "nine" for "eight" would not really be in conformity with what my hon. and learned Friend said.

Mr. Ramphal: Let me explain.

Mr. Jagan: As it stands here one would have to sit from 4 o'clock, it is only that the word "eight" is to be amended.

Mr. Ramphal: Mr. Chairman, it is not necessary to stipulate the commencing hour after 4 o'clock at which the courts will start their business. This is why the Bill as presented did not mention 5 o'clock. The hours then contemplated were 5 p.m. to 8 p.m. What we are proceeding on is that it is possible, without the consent of the parties, for the courts to sit at any hour after 4 o'clock, namely 5 o'clock, likewise 6 o'clock. What needs to be stipulated is that you can sit after 4 o'clock and what is the new terminal time. The Bill provides that the courts can sit after 4 o'clock up to 8 o'clock. We now propose an Amendment, that it can be up to 9 o'clock. I have indicated that the administrative arrangements that will be made will be such that the courts will commence their sittings at 6 o'clock and will end them at 9 o'clock.

Mr. Jagan: Mr. Chairman, if a decision was reached with the Guyana Bar Association, of which my hon. and learned Friend spoke so highly a few minutes ago, that sittings should be from 6 o'clock to 9 o'clock, why cannot that be stated here? You will appreciate the difficulty;

once it is from 4 p.m. to 9 p.m. a magistrate could decide to fix a case from 4 o'clock to 9 o'clock.

Mr. Ramphal: It is not stated from 4 o'clock to 9 o'clock.

Mr. Jagan: The court could sit from 4 o'clock. If one leaves it as it is "after 4 o'clock" it means that a magistrate, without the consent of a party, could start sitting from 4 o'clock in the afternoon. I can see no objection, if the Government intends to have the compulsory sitting from 6 o'clock to 9 o'clock, to having it stated in the Bill itself, because one cannot say what magistrates may do. My hon. and learned Friend cannot give directions, otherwise it would be said he is directing the magistrates what to do.

Mr. Ramphal: Hon. Members must remember that what we are amending is the Summary Jurisdiction (Magistrates) Ordinance. We are not just amending the Rent Assessment legislation. We are making this Amendment in relation to these special sittings but we are changing the basic legislation with regard to the hours of sitting for Magistrates Courts. It is necessary to keep the original terminal dates for the normal sittings of the Magistrates Courts, that is, that they end at 4 o'clock. I am saying in the House that the administrative arrangements are that these courts would start their work and the notices that go out about applications and hearing will say for the sitting of the court commencing at 6 o'clock on such and such a day. I think I have every right to expect my hon. and learned Friend to accept that those are the arrangements that will be put into operation.

The Chairman: I will put the Amendment by the hon. Member Mr. Jagan.

Amendment --

That the following words be substituted after the word "following":

(2) Nothing in this section shall prevent a magistrate from sitting before nine o'clock in the morning and after four o'clock in the afternoon with the consent of the parties or their counsel or solicitor.

Put, and negative.

The Chairman: I will put the Amendment by the hon. Attorney-General and Minister of State.

Amendment --

That the word "nine" be substituted for the word "eight" in paragraphs (b) and (c) of the new subsection (2).

Put, and carried.

Clause 2, as amended, agreed to and ordered to stand part of the Bill.

Clause 3, agreed to and ordered to stand part of the Bill.

Assembly resumed.

Bill reported with Amendments; as amended, considered, read the Third time and passed.

Sitting suspended at 4 p.m.

On resumption --

Mr. Speaker: The hon. Minister of Trade and Leader of the House.

4.33 p.m.

TRADE (AMENDMENT) BILL

"A Bill intituled:

An Act to amend the Trade Ordinance." **[The Minister of Trade (Leader of the House)]**

Mr. Ramsaroop: Your Honour, on the 11th February, this year, his Excellency the President of Guyana signed an Order. In many quarters that Order has since been described as

the people's charter. It sets out the maximum wholesale and retail prices for a number of foodstuffs and all drugs to be sold in Guyana.

This Bill seeks to ensure the scrupulous observance of the provisions of that Order. It is very simple in scope and language but very important in practice. The scheme set out in the Bill envisages two situations: (a) cases of first offences, and (b) cases of second and subsequent offences. Under this Bill in the case of a first offender the delinquent or defaulting person can be subject to a varying degree of monetary punishment starting from "minimum of $500 to a maximum of $1,000, and" – and I shall define in a short while what is meant by "and" – varying degrees of imprisonment starting from three months in the first case and extending to six months as a maximum in the second and last case.

The word "and" in this context is construed pursuant to the provisions of the Interpretation and General Clauses Act, 1970. Under part 14 of that Act dealing with offences, penalties and prosecution it is stated:

> "Where in any written law more than one penalty is prescribed for an offence, the use of the word "and" shall mean that the penalties may be inflicted alternatively or accumulatively."

Translated in the context of this Bill, this means that on first offence the presiding officer, presumably a magistrate, can impose a monetary penalty, that is, a fine and/or imprisonment either falling within the three months category or the six months category. "And" therefore is defined in this context to mean "and/or". That is the scheme with respect to the first situation.

With respect to the second situation, the scheme contemplates one set of punishment which is a combination of a fine and imprisonment, that is, a maximum of $1,000 or not more than $1,000 and a term of imprisonment of twelve months. While in the first case there is a discretion, I submit, in the second case there is no discretion. Once the offender is convicted, the full devastating impact of the law is put into operation and, that is, a combination of a fine with imprisonment. That broadly represents the new scheme of punishment under this Bill.

Hon. Members are aware that under the old law it is provided in the Trade Ordinance of 1958, to be precise No. 34 of 1958, the magistrate has a wide and liberal, maybe too elastic discretion that permits him to impose a maximum penalty of $1,000 and I think 12 months imprisonment. Under this law some may say that discretion has been whitted down, but I submit it has been whittled down in the public interest. The discretion still obtains in the case of first offenders because in that context the magistrate can exercise a discretion both with respect to two levels of fines and/or with respect to two levels of imprisonment, being $500 and $1,000 on the one hand, and three months and six months on the other hand.

The philosophy that informs the proposed enactment of this legislation is simple. As I said before, it is one of the means that the Government is presently advising to ensure the observance of the provisions of the Order to which I have referred. It has been found in practice that the old law has not been effectively and efficaciously used and it is hoped that with this new arrangement, that greater justice would be meted out to defaulters and to offenders.

With those few words I wish to move the Second Reading of this Bill and to commend it to this honourable House. For the first offence I think I remarked that there was a varying degree of punishment from three months to six months. I understand under the law – and I stand corrected – it is not three months to six months; it is three months to twelve months. Subject to this minor correction I commend this Bill to the honourable House.

Question proposed.

Mr. M.Y. Ally: Mr. Speaker, under this Trade (Amendment) Bill magistrates will be restricted by law to impose a fine and imprisonment. We cannot deny the fact that the Guyanese people are sweltering under the impact of the high cost of living. I think this government should be honest in dealing with justice. We know to err is human and errors can be committed either knowingly or unknowingly. According to this proposed law even a small stall holder, a plantain dealer or a provision dealer, if he gets involved in some silly mistake, will be liable to fine and imprisonment. The whole value of the shop might not amount to $200 or $300, but we find that

this is the fine that would be meted out to this type of persons. They would be "criminalized" so to speak.

This should try to solve the employment problems and face them squarely. It should not hide behind the poor dealer. We have seen the Government running the Rice Marketing Board with experienced people, accountants, bookkeepers etc. and despite the efficiency they still run at a loss much less small people who do not have that intelligence and experience. We also find that the Guyana Marketing Corporation – this is a big corporation with experienced people – also has to receive subsidies to keep going. The ordinary man receives no subsidy from Government; for employment there is no assured pay.

I should like to know how the Government expects an ordinary man to live. What do we find? I remember there was a case of black marketing by the Guyana Marketing Corporation. A certain item, cabbage, was controlled at 36 cents per lb. and yet this great institution, this Governmentorganisation, was selling cabbage at 42 cents per lb. blackmarket. This happened more than one week. In this case who would they charge? Would they charge the entire Corporation? But the Cabinet has to covered up these rackets. So no offence can be committed.

As this Government is now pursuing a policy of so-called "socialism" I suggest that it should try to arrange to get advice through the People's Progressive Party to import goods purchased in bulk and try to redistribute them; we can find avenues. In socialist countries they do not penalize the people for redistributing goods. The people are really in need of cheap goods and cheap facilities whereby they can make an honest living. But this is a short cut where the Government is trying to penalize one section to pay for the other.

The policy of gaoling everybody should not apply to persons who are willing honestly to find employment and to help the nation. The discretion should remain with the magistrate who will deal with each case according to its merits and demerits. This is where I fear justice would nto be dealt rightly because if we put the magistrate in a strait-jacket he has no way of coming out regardless of all good reasoning that the case does not warrant that people should be taxed to that degree. He is restricted by law to impose the penalty. I feel that the government should take

a second look at this policy of gaoling people. Surely not every trader is going to black market is the Guyana Marketing Corporation.

I referred to black-marketing by the Guyana Marketing Corporation. There are efficient people working there but still no charges were laid. But these people were guilty of black marketing. These are cases that the Government should take into consideration before imposing these harsh penalties. I urge the hon. Minister to reconsider this to take advice and let us work together for a better solution whereby we can bring the cost of living down, so as to benefit the working-class people in our country.

Mr. Ram Karran: it will be recalled that there were a number of slogans from hon. Members on the other side of the House. First, from the hon. Minister of Agriculture who then held the Ministry of Finance; then there was one from the hon. Minister for Housing Mr. David Singh.

Mr. Ram Karran: I bow to your ruling, sir, not to attack people who do not have a right to reply. I am referring to the hon. Member Mr. Bissember shouting hoarse, "We are going to goal the sharks", and now the hon. Minister of Trade (Mr. Ramsaroop) says "Goal the sharks". Are they really gaoling the sharks? Before we come to that, I wish to point out that in the past the Government's policy has been to give to the shopkeeper very little. I am talking about the poor distributors of the basic items of food. Rice, for instance. When a shopkeeper is finished selling rice all that he gets for profit is the empty bag. There can be no denial of this. There are 22 gallons in a bag of rice and if you measure and calculate the price he pays for a bag of rice plus the freight and the price he sells it at you will come to no conclusion but that he gets only the bag for profit. What about milk, sugar, oil, salt and the basic foodstuffs? The mark-up is so negligible that the shopkeeper makes little or nothing on these items. The hon. Minister Mr. Singh has experience in shopkeeping and he can tell you. I am sure he will agree with me that this is true.

One does not urge the Government to increase the prices so that the shopkeepers can make more profit. One asks the Government to stop hurling slogans and to do something about

it. What has the Government done recently? The External Trade Bureau has been foisted on the people without proper consideration. After speaking to the hon. Minister he admits that this thing is wrong but the government cannot do anything about it now but will do something in the future. What has happened? [Interruption] I stand corrected but what has the hon. Minister done about the E.T.B.? A large number of people used to import goods from the sole agents things like Ovaltine and Milo and a lot of other things that people use every day. Having brought these things down these small importers were able to wholesale to shopkeepers in the country and elsewhere with some form of competition from the monopolies, Stokes and Bynoe, Tangs Drug Stores, Jaikaran's Drug Store, Bookers and Mussons. What the hon. member has done is to give back to these monopolies, these capitalists, these imperialist, all the imports so that they alone can import – Mussons Guyana Limited, Stokes and Bynoe, Tang's and Jaikaran's, associated with the imperialist of course. [**Mr. Correia:** "What about Gimpex?"] Gimpex is not an imperialist concern. These people are the only ones allowed to import these things on which they have the sole agency rights. They get between 3 and 5 per cent on that; they get 20 per cent to wholesale to all the local importers, who are really small men, who are bringing in drugs and beverages and a lot of other things that people use, numbering about 200.

The socialist Government of Guyana consciously makes a law to benefit the big blood suckers in our midst and now it brings a law saying that this law is going to gaol them. We are happy if this Government is going to move to operate against these imperialist blood suckers, these black-marketers because when the goods become scarce that is where the black marketing starts. They sell the goods at fantastic prices to the retailers who, out of necessity, because they have to live, pass the high prices on to the people. We are not opposed to the application of high fines and imprisonment to people who black market but, as my hon. Friend said there are a lot of people who have a $200 stall, there are a lot of people who eke out an existence by distributing goods in the country areas who have to run shops with the assistance of their small children and the penalty is not for overcharging alone but for any offence under the Ordinance. We had numerous cases during the war years when for the reason that a tag fell off a particular item, the police went into a shop and made a successful conviction.

The hon. Minister tells us that there is a discretion. What discretion is he talking about? Originally the magistrate had the power to fine a person from one cent to $1,000; he could have imposed a fine anywhere between those limits and/or imprisonment. If a person is convicted be must be punished. Today the magistrate has no option but to impose a minimum fine of $500. I am not a lawyer but I think this is clear to any layman that the discretion which the magistrate had originally of fining – *[Interruption]* A man is brought before him, a child threw away the tag, or the tag was not put on – a small offence – a crime was not committed – the goods were not sold and he made an extra cent or an extra 10 cents or an extra dollar – it might be that the wind had blown the tag away or a rate ate it off and the hon. Minister knows that rats are full in shops; there are hundreds of items and one tag falls off and the shop keeper stands convicted under the law.

We just passed a bill in which the Government is making magistrates by the dozens; the numbers of the Government must have some confidence in these magistrates. These people are not permanent magistrates. They are being given the responsibility to determine the law with respect to assessing houses. These are regular magistrates we are talking about now, people who are in receipt of a regular emolument from the Government should be in a position to direct the magistrates as they are doing in some cases; magistrate listens to the witness or to the accused person; he has an opportunity of studying the demeanour of the person, he has an opportunity of deciding whether it is a willful offence or whether this is an error. The magistrate should be in a position to say "Well this person should pay a nominal fine. He is guilty if it is on a technical ground", and fine him $5 or $2 as the case may be. But the hon. Minister tells us that the magistrate are too liberal, that the wide, liberal and elastic discretion which they had under the old ordinance is to be removed and magistrates must be in a strait-jacket create by the Government this is going to create a tremendous amount of hardship on the poor women perhaps supporters of the P.N.C. who will be selling plantains. The way things are going the police might never take here to court. But if someone is selling plantains and the stock is worth $20 or $30 and that person has to pay a fine for some error, then it is very clear for hon. Members to see that this person will be thrown out of employment, will probably be sent to prison and will have to pay a fine much greater than all the assets he or she has. My friend reminds me that most of

these people I am talking about are semi-literate, they have to calculate mark-up and percentages on these imported things and they might make a mistake.

Again, during the war, many people were found with inaccurate prices and for a half cent or penny magistrates during the war years, had to impose heavy fines on them. I wish to urge the Government and to assure it that we are in accord with it to gaol the sharks. We want to stamp out black marketing but we are asking the Government not to impose a hardship on those thousands of Guyanese people who do not have the means to avoid getting into error now and again.

I do not think that the Government can come to any conclusion but that the appeal which is made from this side of the House is worthy of support and we are willing, if the hon. Minister sees merit in our contention, to meet at the shortest possible time to effect an amendment if it is not possible now. Perhaps it will be necessary to withdraw this amendment and let the old Order stand. You are really going to create hardship for many people who, on account of children or accidents, will find themselves before the law.

5 p.m.

Mrs. DaSilva: Mr. Speaker, we wish to pledge support to the hon. Minister of Trade, Mr. Ramsaroop, but we advise the Government to allow the law as it remains now to stand, because it will be presenting an undue hardship, particularly to the small man.

But there are certain things I would wish to point out in connection with this price control. We are told the External Trade Bureau is enforcing price control in order to bring downthe cost of living. Daily we talk and hear about the cost of living. Indeed we know that the E.T.B. will never get anywhere with price control because all that it is really providing and encouraging is black marketing. This will continue because they do not have enough personnel to police the price control to see that the controlled prices are adhered to. There are not enough people to do this, there is not enough staff. The shopkeepers, big sharks and little men feel justified because the profit margin allowed them is so small that they cannot cope with their overhead expenses. Hey therefore juggle around with the prices. But who in the end suffers?

The very same people that the hon. Minister is trying to protect by bringing down the cost of living.

To make this more concrete I should like to point out two particular items where the shopkeepers juggle with the controlled prices. The hon. Minister, issued a notice in the Gazette of the 15th of February, 1971, which gave the prices for the various controlled items. But what is happening now? I take one particular item, tomato Ketchup. The price is given on page 37 of the Gazette for the 30 ounce size, the large size bottle of Matouk's and Catelli's at $1.10 a bottle. Primo's is cheaper, it is 89 cents. Now what is happening? The importers are bringing down another brand of tomato Ketchup by the name of Everfres. This is not on the price control list and it is being sold at $1.20 a bottle. I am sure that it will be pointed out to me that Everfres is of a higher quality than the Matouk's and the Catelli's. But we do not know this; we have no means of knowing this. We come back again to establishing a Bureau of Standards. As there is no Bureau of Standards surely something can be put on the invoices or can be printed on the labels of these imported goods so that people will know if the standard is higher or if the standard is lower. From actual use of it, I would say that there is no difference between the Everfres and the Matouk's and Catelli's. It is just a question that the shopkeepers are taking advantage of it not being on the list of controlled items and are therefore champing the label and putting the price up. Housewives have to buy because there is no other brand.

I would suggest that the hon. Minister, who will be back shortly, I hope make a note of this and make sure that they all come under price control because this is happening.

On the reverse, as a catch, there is a new brand of instant coffee on the market called turban brand. To introduce it, the shopkeepers are putting it for sale at 90 cents a bottle when the controlled price is $1.00 a bottle. No doubt when everybody gets accustomed they will probably put it in line with the other brands. But this is the way they are juggling the prices and who in the end suffers but the housewife?

But we talk about these items. These items are CARIFTA country items; we have it here in our own Guyana with stuff produced, manufactured and processed here in the country. What

are we doing about the stuff produced by the Guyana Marketing Corporation? They have recently put up in very attractive packets bacon for sale under the brand name of Sunbelle. This is very good bacon, it compares very well with what was imported and it is our own Guyanese bacon. But if you go to the Guyana Marketing Corporation you pay $1.18 per pound for the streaky, $1.26 for the back and $1.66 for shoulder bacon. If you go to the supermarkets you are asked to pay for the streaky bacon $1.36 instead of $1.18; for the shoulder bacon $1.80 instead of $1.66. For our own locally produced things we are allowing the prices to be juggled around and thus the cost of living is sent up.

What do you expect to happen in the ordinary market places where the vendors can juggle around with prices and put on all sorts of fancy prices in order to be able to exist? We have to start first with our own items at home and see that they are properly controlled. In the case of the items coming from overseas, especially from CARIFTA countries, we have to see that all the brand names are covered and the standard covered or find some means of doing it whereby every thing of the same kind and the same quality will be controlled at the same price.

Sir, going back to the Tomato Ketchup, it is probably the same firm that manufactures all the brand because I have noted that they are all manufactured on Wrightson Road in Trinidad. I do not know whether there are several Tomato Ketchup factories on Wrightson Road or if it is one just changing the brand name to suit the circumstances. But if the hon. Minister of Trade really has in mind to keep down the cost of living I would suggest he goes into these matters and sees what can be done because it is the housewife who is paying and the cost of living is not going down.

In talking about the housewife, if the hon. Minister of Trade has problems with his policing of the price control because we are always told that there are not enough people to do this. I should respectfully like to suggest to him that he employs housewives on a part-time basis. There are many housewives who would be glad for these kinds of job. You would naturally have to employ responsible people, on a part-time basis. The housewives are the ones who are in and out of the shops: they are the ones who know how much has to be paid. I should like to suggest that maybe he can consider this because it might help to ensure that the controlled

price is kept. If the shopkeepers know there are more people to police them and to see that they are not breaking the price regulations they would not be so inclined to black market and there would be no need to have the magistrates, either at their discretion or otherwise the Government is asking us to pass now, being forced to fine people not less than $500 for the breach of the Ordinance.

5.08 p.m.

Mr. Sutton: Mr. Speaker, on the face of it nothing seems to be wrong with the Trade (Amendment) Bill now presented to this House. That will occur to anybody who looks at it superficially but has not taken the opportunity to read the original legislation to see how the situation is being improved by bringing this legislation to the House.

Before we examine this in detail it is worth while to examine the motives of the Government in this matter and what it is trying to do. We would give this Government the credit for honestly trying to control the cost of living and therefore finding it desirable to start with food which is on every body's budget every day. This is not a field where you can just jump to conclusion and arrive at any meaningful solution without knowing all the facts. The Government is not only finding the solution to this problem very difficult, but it is, in fact, complicating it even more than it was complicating it before and unfortunately will find itself in the position of defeating its own ends by carrying up the cost of living rather than taking it down.

This legislation makes it absolutely necessary for all the factors of this matter to be properly aired because there is obviously such a high degree of misinterpretation which is leading to measures being taken which will obviously defeat what the Government is, possibly sincerely, trying to do.

This is a measure which is putting into the law that the control prices be adhered to. This measure has been thought necessary because it has been alleged that the penalties are not sufficiently severe. Now we must agree that you may be able and probably will be able to make out a case, the control of essential prices, the control of all prices. But it is also a well-known fact of every day business economics that you will never be able to control prices unless you are

absolutely certain that goods are in sufficient supply and artificial shortages are not created. It is no use trying to control prices if you do not ensure that goods are in steady supply and that the prices are realistically set.

The first essential in keeping prices down is to take every possible step to ensure that the normal forces of completion are not stultified, that they operate at all levels. Let us examine what is the present system used by the External Trade Bureau in trying to control prices. They say that it is necessary to eliminate the sharks known as the commission agents, in order to control prices effectively. They apparently were not born or they were not here during the war when the banks had to certify people's invoices. The control department received those invoices and the prices set were realistic. At all times they had the right to do this. Machinery could be properly set up to control prices effectively. But do not tell us that E.T.B. has been established in order to ensure that prices are controlled effectively because you can do it without the E.T.B. The fact is that the E.T.B., without apologizing for its action, has decided that the Government will gradually but surely go into single purchasing in order to distribute all those goods in the country. We know that where single purchase agencies exist and where they are not driven by the laws of profit and loss in order to ensure that they buy properly, they control quite well, they set prices effectively, but, because they buy badly, they must end up by having an unsatisfactory level of prices.

Now let us examine it, because I am going by what I have been told and I do not think it was a private conversation – by the Minister of Trade as to how the E.T.B. sets out to buy or to ensure that orders are placed for the commodities which they control. I asked the hon. Minister when you buy potatoes, when you buy garlic, when you buy onions or take orders for them, what steps are taken to ensure that you buy competitively? You get offers from how many people? The Minister's answer to me, which I grant you, may be figurative: "Oh we get about 10 or 12 different cables."

I am sure that if the hon. Minister, enquires from the Chamber of Commerce – because the government has sympathisers who are deeply involved in business and they can answer all the questions for them – the buyers in Water Street will tell him that when the potato season

starts, when potatoes are sold, when they are imported, when a ship is to sail, throughout the day from 7 o'clock in the morning to 4 o'clock in the afternoon at least 100 offers are put in front of them and price change hourly particularly on perishables as the time comes for the boat to sail for the potatoes to be loaded. One firm will get 10 to 12 cables per day and there are 20 to 30 firms. We know this.

What is the answer? They themselves tell you, "The price is falling, you will get a better price this afternoon. The boat will close tomorrow at 10 o'clock. I guarantee that the goods can go abroad,"and that sort of thing. Now what does the External Trade Bureau do? People abroad are sending to them; their managers put ten cables in front of them, and their major problem now is not the fixing of prices at a proper level in relation to the import cost. Their big problem is to buy competitively. Unfortunately I am one of those poor people who have had to make my living through business. Very often I am accused of trying to do something because I am interested in it. I should like to prefix my remarks by saying that at the moment I am not involved in selling as an agent or otherwise. Therefore I am not involved at all.

The important point about this is: Are we going to have our poor people saddled with costs because they do not know what they are doing? Last year over $900,000 was voted as a subsidy for the Guyana Marketing Corporation. The Minister assures us, and figures will prove in due course, that the E.T.B. will operate with the commissions that they earn which no longer go to the commission agents. I have no doubt at all that when the time comes and we examine these figures two factors will arise. On not a single item of food is the vaunted and as they which they themselves published originally – 10 per cent commission taken.

They will find the bigger the seller the lower the commission. For potatoes and onions the commission varies between two and three per cent. What do the bigger buyers do? They come and tell you, "Look I will buy 1,000 bags which I must get". This is a bad practice; but nevertheless, a dollar, no matter if it means one per cent, is more money than 80 cents. If a commission agent is going to get an order for 1,000 bags of potatoes on which he will earn a dollar – I am speaking figuratively, of course, call it 500 if you like – and he will get an order for 200 bags of potatoes and make $200 what will he do? He will, of course, take the order for

1,000 bags at a lower price. That is normal every-day commercial practice. But does the E.T.B. do anything like that? No. It sends cables, it gets people who know, "Boys, it is about ten of us and eventually we will get one-tenth of this business". It does nothing to ensure you get the lowest possible prices. The result is, before these prices reach the factor of being controlled, they start off by being bad because they buy badly. They buy badly because research was done by hundreds of agents. If one slipped up you would hear, "Why does one agent get 50 per cent of the business while this fellow gets 2 per cent of the business and another fellow gets 6 per cent of the business?" Because he researches it; he brings guarantees," sound on arrival, "a low price" and all that sort of thing and he beats you for this season. Next season you think about it; he got away with something. You research to find out why his prices were so low. That process continues all the time. And what happens? The bigger the agents, particularly in food – I do not know about drugs and I am not touching drugs – the bigger the agent the more he sells, the lower his price is, because he can afford to work for a smaller commission.

Is the E.T.B. going to consider at any time working for commission of one per cent and half per cent because it orders 1,000 tons of goods? The answer is, No. It is not geared to do this. Why do people come into the business? At least 10/15 new agents come into the business every year because they think it is a baby party and easy money and 10 to 12 go out of the business every year. They find it is not as easy as they thought. An agent who is inexperienced, by the time the end of the week comes, will find he has spent $2,000 in cables but he has not received a single order. The result is that he packs up because he does not know what to do, where to do it, when to do it and so on. And that is the position. Buying is no problem, anybody can buy, but what are the conditions under which you buy?

I took the opportunity to mention these points because the whole idea of this Bill is to ensure that control prices are kept a a proper level. If this proper level is to be maintained under all circumstances, the Government must go out of its way to ensure this. Even if it is changes, this year, next year, or five years from now, it will be found that in the context of western business, in which it is situate, it is impossible to buy competitively except all the offers, not 10 of them, but 100, 150 are put before the E.T.B. them all the time.

You will also find that proper representations were made to them. They did not take the opportunity to examine them. As soon as they looked at their working expenses, they said, "Those are too high; absurd, throw them out." And what is going to happen? From the time these control prices have come in, at least half a dozen small businesses have closed down. Why? Because they know it is impossible to operate on the margin. If this continues what is going to be the result? The result is going to be that the control prices will operate in an area of scarcity, they will create a healthy black market and they will need the whole Police Force, the whole of the G.D.F. and all the special constables in order to police it because control, no matter what are the penalties, without proper policing, is an absolute failure.

We come back to the gravesmen of this Bill – the question of the penalties as against the old Ordinance. I took the trouble to read paragraph (4) of section 5 of the Trade Ordinance which deals with the Control of Imports, Exports and Prices. This is the Trade Ordinance No. 34 of 1958, as it now stands.

> "Any person who commits a breach of any order made under this section shall be guilty of an offence and shall be upon summary conviction thereof be liable to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment."

In other words the penalties are the same. But what is the difference? The only difference is that the discretionary power is taken away from the magistrates. What the hon. Member Mr. Ram Karran and the hon. Member Mr. Yacoob Ally said is quite true, you cannot murder the few to get at the many. If you have to do that; your law is bad, and what is going to be the position? We have good policemen, we have bad policemen, we have good control officers, we have bad control officers. They are human beings, they have their animosities, they have their differences with people and a price tag drops off an item and no matter how the magistrate may be impressed that this was an unfortunate accident he would be compelled he has no alternative. You cannot say the tag was not there and then say the man is not guilty. If the tag is not there he is bound to be guilty and then you are going to say, "Don't worry with that if that happens the magistrate will not bring him in guilty." If that is so the magistrate will not be doing his job because what

have you charged him for? For exposing goods without a tag on the goods and if a tag was not on the item he is bound to be guilty and the magistrate has no discretionary powers.

I submit this, or any other state, becomes a police state, a vicious state, when the human beings that you have put there to judge their peers, other human beings are not allowed to take into account every day human factors that are common. If that is so, we are walking the road to a police state, to a dictatorial state which is wrong, which is bad, and should never be entertained. We are creeping there, it is a creeping sickness. But let us recognize it for what it is. This legislation is doing nothing to help this matter.

What the government should do is to see that they buy competitively, fix their prices, leave the penalties as they are and let the magistrate deal with the situation. They will know the vicious ones, they will know the people who appear before them two and three times and they will have the power to give them the maximum penalties. Why would you need courts if the magistrate at no time has discretionary powers in order to impose a severe sentence or in order to find in view of mitigating circumstances, that a person is guilty but "so and so" is the position. That is the essence of justice and if you destroy that you are destroying justice itself.

I submit, Mr. Speaker, that this Bill is bad and no person who gives it thought could bring himself to vote for it and put that situation beyond the pale of human consideration which is always expected to be given by persons acting either as judges or as magistrates. Once the penalty is there they will not be doing their duty if they do not impose the extreme penalty when they are satisfied that the person in front of them is a rascal that he did not put on a tag because he did not want anybody to see it.

But, Mr. Speaker, we all are seeing a full page advertisement in the newspapers everyday setting out the prices. If we develop a situation where people know the prices for all the essential items which are controlled, are you trying to tell me that they will go into the market and would not know, in advance, what is the controlled price of potatoes? I refuse to accept that. That is insulting people's intelligence. Therefore, why is the Government wasting money by paying for all these big advertisements? All they have to do is to ensure that these advertisements are stuck

on a person's stall. I am not suggesting that they take all this trouble. All I am suggesting is that they leave the discretion where it should properly be, that is, with the magistrate. The penalties are there in the old law. They are not bringing a new penalty. Discretionary powers are being taken away from a magistrate, when many other meaningful things in order to ensure the prices are kept low can be done.

What is it? Have they no confidence in the people whom they have appointed as magistrates? Have they no confidence that the people will in fact take proper evidence, arrive at a conclusion, and take the steps they should take? They do not have any confidence in the people? As I said, Mr. Speaker, the old legislation is basically the same. The only difference is that you are taking away the magistrates' discretionary power. It is there. If you like, let the word go around, "Look these people are black marketers; the penalties have to be serious." But do not take away the discretionary power because one or two people, through circumstances beyond their control, may have to be brought up and there will be you have no discretionary powers to sympathise with them."

As I said before, the marking of the goods is not the thing that is vitally important. What is vitally important is to prove that that merchant has actually sold the goods at a price above what it should be sold at. Everybody here knows that the majority of black-marketing offences did not go through the courts because tags were not on goods but because the Police set traps for people who get their goods properly marked but were selling at black market prices. You know that; I know that; everybody knows that. The big black marketer has every single price marked. But he is saying, "Unless you pay the right price I have not got what you want."

Take this example that my colleague gave just now about tomato paste. This is what this Government should do when it decides that tomato paste or ketchup or any item is to be controlled. Say that all tomato ketchup which comes into the country is subject to control and cannot be sold before a controlled price is fixed on it. So they can bring forty different brands and until they apply to get a price established for that brand it cannot be sold. It is as simple as that. But what do they do? They control two or three bands at a cheap price and they bring in a brand that is not controlled. When you go and ask for the cheap brand it is hidden somewhere:

"We do not have it but we have this one", and because you want tomato ketchup so badly, you buy it. That is how black market works.

I submit that if the Government should go about getting roper consultation with the people who know about setting proper prices it would get the co-operation of the whole community. The whole exercise would be meaningfully done. If these are not done these measures will fail. As a result we are to vote against this measure. *[Applause]*

Mr. Ramsaroop (replying): Your Honour, now that the sound and fury signifying nothing has ended you will permit me to make a few remarks in reply. I am moved to observe, after having heard the mock pathos of the mini Opposition and the unctuous hypocrisy of the major Opposition, that one sometimes is sickened in this House to note the different alliances that take place during debate. These members of the major Opposition, these modern day Vicars of Bray, sometimes hunt with the hounds and then at other times they run with the hares. These goodly gentlemen, who profess a philosophy of socialism, sometimes conveniently wear the garb of the capitalists. But we learn that politics is the art of the possible and sometimes it is good for them to survive this way.

The hon. Member, Mr. Yacoob Ally, whose ignorance I cannot correct – [**Mr. Hamid:** "Apologise."] – but whose literacy I can remark on, -- I did not know that "ignorance" was a word banned in this House, sir.

Mr. Speaker: You must withdraw the remark concerning the hon. Member's ignorance.

Mr. Ramsaroop: As I was saying the hon. Member Mr. Yacoob Ally whose knowledge of the law is understandably deficient, remarked that he did not understand that there was an alternative section to the punishment. That is a justifiable lack of knowledge but I want him to know that in the situation of a first offender the magistrate has a discretion. Let us not play with words. The discretion is either taking one limb of the punishment or the other or taking one limb of the punishment and the other. The magistrate would decide in cases that come before him what type of punishment will be meted out in the circumstances of the case. I merely want to observe this point so that the hon. Member will leave here more knowledgeable than he is.

There is wide impression that this law strips the magistrate of any powers that he may have to deal with situations that demand merciful treatment. Let me, sir, just for the enlightenment of my goodly friend indicate to him that under the Probation of Offenders Ordinance, Chapter 19, and the Summary Jurisdiction (Procedure) Ordinance, Chapter 15, of the laws of Guyana the magistrate has certain judicial discretions which he can exercise in appropriate circumstances. In the first case he can put an offender under a probation and in the second case he can exercise what the lawyers have now come to know as section 42. Therefore, it is clear that this Bill does not denude a magistrate of his rights to invoke other provisions of the law to cater for the very deserving cases which have been conceived by members of the Opposition.

The hon. Member Mr. Ram Karran, in this parliamentary ambivalence that has now become his famed characteristic speaks about the Government treating the retailers differently from the wholesalers. That is an illusion, sir. The law that was recently enacted sets a maximum price not only for retail articles but for wholesale articles. Therefore, there is no distinction here between the wholesaler and the retailer. The hon. Member wants to associate the wholesaler with the big distributors in Water Street and the merchants. But let me tell him under the new law – I do not know whether he has misconceived this point or misunderstood the point but under the new law which was promulgated recently under the signature of His Excellency the President, wholesalers are also covered and if they infringe the law they will have to face the same penalties that this Bill now seeks to establish.

The hon. Member Mrs. Elinor DaSilva has made a point with respect to Ketchup. That, I intend to pursue. I have already told her in a private capacity that I was going to look at this point. I did not think that in the face of that assurance, she would make this very trivial observation in this House and protract, unduly, the important business of the State. But I give here the assurance again that I am going to look at this point. This is not a full-blown debate on the External Trade Bureau and many of the irrelevancies referred to I do not propose to reply to. When the proper time comes to assess the effectiveness of the External Trade Bureau I shall

answer those questions. Suffice it to answer only those that are relevant to the penalties now sought under this Bill.

My good friend, the hon. Member Mr. Archie Sutton, in his heat rather than in his light, has not touched on any significant point that would warrant or deserve any replies from me. We all know his style and we all know his buffoonery. We all know the inane utterances that flow from his unlearned mouth but we have come to regard him as part and parcel of the comic element in this House. I do not propose to reply to any of the points he has raised.

I just want to say in closing that one is not too old to learn in life. In fact, I am learning. I am seeing the new and subtle alliances between the maxi Opposition and the mini Opposition. These are people whose interests are divergent and it is the first time I am seeing their interests coincide. But, sir, one sees these alliances today, one sees the so-called "socialist" Government, that many of them associate themselves with today, taking up the bastion of the capitalists. One cannot blow hot and cold, one cannot on the one hand, make the allegation that the Government is not doing anything to reduce the cost of living and, and on the other hand, impugn this Government for taking necessary steps to stabilise the cost of living.

With those few words I hope that hon. Members will be enlightened and will understand the full philosophy behind this measure.

Question put, and agreed to.

Bill read a Second time.

Assembly in Committee.

Clause 1, agreed to and ordered to stand part of the Bill.

Clause 2

Mr. Ram Karran: The hon. Minister in dealing with this contention of ours that the magistrate has no discretion –

The Chairman: You are not moving an Amendment?

Mr. Ram Karran: I want to do so. I want to urge the insertion of the word '"twenty" between the words "than" and "five" in paragraph (a) of sub-section (4) of section (2).

The Chairman: In other words you are increasing the penalty from $500 to $2,500.

Mr. Ram Karran: I want to delete the words "one hundred". May I --

The Chairman: You are substituting an Amendment, "A fine of not less than $25."

Mr. Ram Karran: Yes, sir.

Amendment proposed.

Mr. Ram Karran: I am sorry to be late, but I earnestly believed that the hon. Minister had accepted the contention of ours that there was absolutely no discretion left to the magistrate after he was faced with a situation. He came back in his reply to say that the magistrate has discretion under the Probation of offenders Ordinance of placing an offender under or under probation or of exercising the power under section 42 of the Summary Jurisdiction (Procedure) Ordinance.

The hon. Minister cannot hope to get away with this and say that if a tag has blown away or if through an error of some kind – the hon. Minister cannot deny that errors are likely to occur – that it would be a very great hardship on a small distributor in the countryside to be fined the sum of $500 even though $500 may be a reduction from the original $1,000 which the magistrate had to impose. I again wish to appeal to give the magistrate some discretion. Even though $25 may be high it fits in here very nicely for an amendment.

I urge the Minister to defer consideration of the Bill today and to consider this with his colleagues. I cannot imagine that reasons such as this can fail to catch the eyes of the hon. Minister. Even though $25 may be a very high penalty for an error, I think that the people who are likely to be affected – and I am not talking about Musson Guyana Limited, I am not talking for the big people, I am talking for the persons who are selling at the roadside, the stalls, I am

talking about the people in the markets, the milk vendors, the small people. The dishonest ones, yes, put the maximum penalty on them but as far as the small people who might commit an error – *[Interruption]* The magistrate cannot. Again it is an insult to the magistrates not to give them a discretion. I beg to move the Amendment.

Amendment –

That the word "twenty-five" be substituted for the words "five hundred" in the first line of paragraph 9a) of the new subsection (4).

Put and negative.

Clause 2, as printed, agreed to and ordered to stand part of the Bill.

Clause 3 agreed to and ordered to stand part of the Bill.

Assembly resumed.

Bill reported without Amendment, read theThird time and passed.

ILLNESS OF DR. THE HONOURABLE SYLVIA TALBOT, MINISTER OF HEALTH

Mrs. DaSilva: Mr. Speaker, I wish to crave your indulgence for just a few minutes to draw to the attention of this House a matter which I am sure many of the hon. Members must know about. I am sure they will give their sympathy. I wish to refer to the article in the *Guyana Graphic* of the day before yesterday in which it was reported that the hon. Minister of Health, Mrs. Sylvia Talbot was hospitalized in the United Sates and is expected to be out of the country for another two months. If this is the case I wish to ask that a letter be sent by the Clerk of the National Assembly to her husband, the Rev. Fred Talbot, expressing our regret on hearing of her illness and wishing her a speedy recovery.

Mr. Speaker: I am sure hon. Members will wish to express their regret at learning of the illness of the hon. Minister of Health. We do wish her a speedy recovery and would request the Clerk to send a letter expressing our sorrow at her illness and wishing her a speedy recovery.

PHAGWAH GREETING

Mr. Ramsaroop: Your Honour, as we are on the eve of celebrating what has come to be regarded as a major national festival in Guyana, may I on behalf of this House, personally, and on behalf of this Government express our good wishes to all Members who are present here for a joyous Phagwah Festival. Let us hope that the main theme of this cultural festival which is the conquest of evil by good and righteousness will prevail in this House over the coming years.

I know, sir, that in another capacity you head an organsiation which is doing remarkable work in promoting such cultural festivals. I know this occasion will hold a particular significance for you. Unless I steal your may I again reiterate the good wishes `to all Members who are present here, indeed, tro all persons who are present on this very festive and joyfuloccasinof Phagwah. *[Applause]*

Mr. M.F. Singh: It is not usual for me to want to associate myself with remarks of the hon. Leader of the House but on this occasion I would like to do so and to wish all thiose who are of the Hindu Religion a happy and joyous Phagwah celebration.

Sutton: We too on this side of the House would wish to join with the Leader of the House in wishing yourself and wishing all Members in the Chamber of this House a happy Phagwah and urging them to follow very closely in the light of Prahalad in the great Holi Festival which we celebrate tomorrow.

Mr. Speaker: Hon. Members, tomorrow is a national holiday and it is fitting that the acting Leader of the Opposition in the House today was a member of a Committee which recommended that such a day be declared a public holiday and that the present Government in office had the courage to do so. We are indeed very privileged to begin a new era in the Co-operative Republic of Guyana on this happy occasion of Phagwah which also commemorates a new year in the Hindu calendar. I am confident that the spirit of goodness will triumph over evil and that we will all share and have a happy Phagwah. Hon. Members, I extend happy greetings and may the year ahead bring success to the Co-operative country of Guyana and to each one of us.

Hon. Leader of the House please move the Adjournment.

ADJOURNMENT

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

Adjourned accordingly at 5.58 p.m.

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