

**THE  
PARLIAMENTARY DEBATES**

**OFFICIAL REPORT**

**[VOLUME 5]**

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

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**45<sup>th</sup> Sitting**

**2 p.m.**

**Wednesday, 29<sup>th</sup> December, 1971**

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**MEMBERS OF THE NATIONAL ASSEMBLY**

**Speaker**

His Honour the Speaker, Mr. Sase Narain, 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 (Absent - on leave)

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

The Hon. W. Haynes,  
Minister of State for Co-operatives and Community Development

### **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 (Absent)

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

The Hon. E.B. McDavid  
Minister of Information and Culture (Absent)

The Hon. Miss. C. L. Baird  
Minister of Education (Absent)

### **Parliamentary Secretaries**

Mr. J.G. Joaquin, J.P.,  
Parliamentary Secretary, Ministry of Finance

Mr. P. Duncan, J.P.,  
Parliamentary Secretary, Ministry of Agriculture

Mr. A. Salim,  
Parliamentary Secretary, Agriculture

Mr. J.R. Thomas,  
Parliamentary Secretary, Office of the Prime Minister (Absent)

Mr. C.E. Wrights, J.P.,  
Parliamentary Secretary, Ministry of Works,  
Hydraulics and Supply

### **Other Members**

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

(Absent)

### **Members of the Opposition**

#### **People's Progressive Party**

Dr. C. B. Jagan, Leader of the Opposition  
Mr. Ram Karran  
Mr. R. Chandisingh  
Dr. F.H.W. Ramsahoyte, S.C.  
Mr. D.C Jagan, J.P., Deputy Speaker  
Mr. E.M.G. Wilson  
Mr. A.M. Hamid, J.P., Opposition Whip  
Mr. G.H. Lall, J.P.  
Mr. M.Y. Ally  
Mr. Reepu Daman Persaud, J.P.  
Mr. E.M. Stoby  
Mr. R. Ally  
Mr. E.L. Ambrose  
Mrs. L.M. Branco

(Absent)

Mr. Balchand Persaud  
Mr. Bholu Persaud  
Mr. I. R. Remington, J.P  
Mr. L.A. Durant  
Mr. V. Teekah

(Absent – on leave)  
(Absent – on leave)

**United Force**

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

(Absent - on leave)

**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 2 p.m.**

[Mr. Speaker *in the Chair.*]

**Prayers**

**INTRODUCTION OF BILLS**

The following Bill was introduced and read the First time:

Appropriation Bill. [*Minister of Finance*]

**Mr. Speaker:** Hon.Members, the Second and Third Readings of the Appropriation Bill is deferred until later on this afternoon.

**The hon. Minister of Finance.**

**MOTION****CUSTOMS DUTIES EXEMPTION FROM IMPORT DUTIES****NO. 31 ORDER 1971**

"Be it resolved that this National Assembly, in terms of section 9 of the Customs Ordinance, Chapter 309, confirm the Customs Duties (Exemption from Import Duties) (NO .31) Order,1971 (No .80), which was made on the 3rd of December, 1971 and published in the Gazette on the 11th December, 1971." [*The Minister of Finance*]

**The Minister of Finance** (Mr. Hoyte): Your Honour, the Customs Duties (Exemption from Import Duties) (No. 31) Order, 1971 was made to give a measure of protection and encouragement to the local phonograph record manufacturing industry. As hon.Members will perhaps know, a number of Guyanese have entered this field and have been meeting with strong competition especially from similar manufacturers in the CARIFTA area.

These manufacturers enjoy the advantage of duty-free materials. Therefore the manufacturers in Guyana were at a serious disadvantage. The purpose of this Order is to allow the duty-free entry of the raw materials; so to speak, which go into the manufacture of phonograph records so as to be able to put the local businesses on an equal footing with their CARIFTA counterparts. At present only the vinyl biscuit, that is the ingredient which makes the record itself, is allowed in duty free. This Order seeks to extend the duty free concession to all

materials not obtainable in Guyana which go into the manufacturing or production of phonograph records.

*Motion Proposed*

*Question put, and agreed to.*

*Motion carried*

**Mr. Speaker:** Hon. Members, it has been agreed that we will deal with item 4 on the Order Paper which is the Miscellaneous Fiscal Enactments, (Amendment) Bill, 1971. The hon. Minister of Finance.

#### **BILL- SECOND AND THIRD READINGS**

#### **MISCELLANEOUS (FISCAL ENACTMENTS) (AMENDMENT) BILL**

"A Bill intituled an Act to amend certain Fiscal enactments." [*The Minister of Finance*]

**Mr. Hoyte:** Mr. Speaker, hon. Members, the Income Tax (Amendment) (No.2) Act of 1970 was passed to give effect to a number of fiscal reforms which the Government had previously announced. The main thrust of those reforms was aimed at rationalising taxation on companies, therefore, the old "across the board" 45 per cent income tax payable by companies was removed and the system of Corporation Tax, Company Income Tax, and Withholding Tax was introduced which raised the effective rate of income tax for non-commercial companies as defined, to 51¼ per cent, and effective rate of income tax for commercial companies to 61 per cent.

After the Act was passed on 12<sup>th</sup> December, 1970 a number of companies objected to the legislation and brought an action against the Attorney General and the Commissioner of Inland Revenue to contest the legality and validity of the law. Their objection seems to have been based on two broad grounds: first, there was objection to Government's tax policy and secondly, there was objection founded on matters of law.

Obviously, the first area of objection was certainly not one which was justiciable in the courts, but Government proceeded to discuss the points raised by the companies, that is of course, with the legal advisers of the companies, with a view to trying to see whether there was any merit in the legal objections, because if there was merit, well, then, Government was prepared to make the necessary Amendments. After protracted negotiations, the Government is now satisfied that all the possible legal objections can really be disposed of, and the necessary Amendments have been brought before this honourable House in the form of this Bill.

What the Bill seeks to do is, first of all, to remove the objections to retroactivity. One of the points raised by the companies was that the provisions for retroactivity were unconstitutional and otherwise illegal. That was not really an objection which Government felt was well founded, except, in so far as the Act did give the impression that certain criminal offences could possibly be retroactive; but, nevertheless, in order to remove the objection, Government has proposed not to proceed with the sections which were retroactive. This Bill seeks to do that.

Secondly, there were several words and phrases in the various sections of the law which were alleged to be ambiguous or to require clarification in some form or the other and opportunity has been taken in this Bill to remove all alleged ambiguities and to clarify certain sections where it was alleged that the sections were not clear. I would draw hon. Members' attention to one or two more important provisions of the Bill.

Section 3 has been the subject of a large measure of misunderstanding by persons who write in the press and hold themselves out as authorities on all matters. I did read in one of our newspapers an assertion that Government had, without mentioning it in the Budget, increased Corporation Tax from 35 to 41 percent and from 25 to 31 percent. It is obvious that the writer of that article did not quite understand what this Bill was all about. I should point out to hon. Members that this increase is merely in relation to Year of Assessment 1971. In point of fact, what Government is doing here is seeking to recoup those taxes which should have been paid had the retroactive provision been implemented.

Government having conceded the point that it will not apply the law retroactively, nevertheless, was quite firm that it did intend to recoup the income tax which ought to have been paid had the law been proceeded with.

I draw attention again to the Schedule. The Amendments which are proposed with respect to sections 14, 22, 27B, 38B, are all Amendments directed to remove ambiguities which the companies allege the sections contain.

Section 19B was proposed to give a measure of relief to persons who buy new houses, in other words, to put them in the same position as persons who build houses as residences. Under the law, a person who builds a house as a residence is entitled to income tax relief in respect of the interest which he pays on mortgage; but where a person buys a new house, he has not been given that facility or advantage. Section 19 B seeks therefore to give to such person the right to claim as an income tax deduction the interest he pays on the mortgage which he has obtained to enable to acquire that house.

Opportunity has also been taken to amend the Property Tax Ordinance. The insurance companies made representations in respect of their statutory fund which, under the law would be treated as loan capital and, therefore, would not be allowed as a full deduction for the purposes of property tax. Obviously because of the nature of this business it is a bit unfair and unrealistic to treat the statutory fund of insurance companies and also deposits of banks in the same way as you treat loan capital of a commercial company engaged in another type of business. Therefore that point has been conceded valid and well founded. We seek here to enable the insurance companies and the banks to deduct in full their statutory fund and the amount held as deposits respectively for the purposes of computing their liability under the Property Tax Ordinance. The other Amendments both to the Income Tax Ordinance and the Corporation Tax Act, 1970, seek either to clear up an ambiguity or to deal with this problem of retroactivity which was raised by the companies.

Finally, opportunity is taken to make an Amendment to the Licence Revenue Ordinance, 1956. There has arisen a legal difficulty in as much as it is alleged that the licence revenue



officer and his staff do not have the power to bring prosecution under the Weight and Measures Ordinance. Whether this is so or not, is not a matter which concerns me very much, but what concerns me is to ensure that the law makes it clear that the licence revenue officer and his staff in fact have the power to bring prosecution, because the administration of the Weights and Measures Ordinance really fall to the licence revenue officer and his staff.

**2.45 p.m.**

I should say that the amendment in this Bill have come after very long and patient discussion with the solicitors of the companies which brought the action to which I referred and we feel that on the Government's side we have done everything possible to resolve the problems which they have raised.

As I said at the outset, the problem of policy is not a legal problem and Government's policy is quite clear on taxation. There are, however, some amendments I should like to refer to arising from further points made at the last moment by solicitors for the companies and I think that the points are points which need consideration and ought to be accepted.

The first amendment will deal with the position of companies which were not liable to pay withholding tax during the period 1st January, 1970, to 11th December, 1970, that is, immediately before the Income Tax (Amendment No. 2) Act of 1970. Therefore it is proposed also to amend the law to give those companies the right to prove to the satisfaction of the Commissioner that they are not so eligible.

Secondly, we would wish to give the companies which have, in fact, paid withholding tax between the 12th December, 1970 and the 31st December, 1970 the right to set off the tax which they have paid against the tax which is now leviable under this proposed Act.

With those few remarks, I would commend this Bill to hon. Members, laying final stress on the point that it is an effort to meet objections raised by business people.

Perhaps I should take this opportunity to clarify a point which some businessmen tell me has been worrying them. It relates to the payment of withholding tax. I think that the scheme of the law and the spirit of the law are that once the withholding tax is paid it is not liable to be paid again. In other words, if company "A" pays withholding tax on a distribution of profits to company "B", then that is an end to the matter. If company "B" distributes profit again, it will not be liable to another application of the provisions for withholding tax. In other words, the tax is meant to be eligible once and not successively. I think that this might be as good an occasion as any to make that abundantly clear for the guidance of the business community.

*Question proposed.*

**Mr. Speaker:** The hon. Member Mr. Sutton.

**Mr. Sutton:** Mr. Speaker, this Bill, though it appears very simple, raises quite a lot of important issues. The hon. Minister of Finance stated among other things, that opportunity was taken to correct several anomalies or apparent injustices. The chief object was to amend the situation where, in the calculation of property tax, 50 per cent was withheld from a mortgage and not allowed to be claimed as a liability in the case of an individual and 25 per cent in the case of companies.

It is important to note that this new tax, which is being amended today, was imposed in December 1970 with retrospective effect to the 1st January of that year, taking the previous year's income under consideration. The argument which we on this side of the House raised at that time was that retrospective taxation was bad and was not regarded as a proper means of taxation in this part of the world.

It will be remembered that the corporation tax was a straight levy. The effect of the corporation tax, together with the new income tax, caused an immediate increase of 10 per cent on the tax which was hitherto paid, that is, from a total company tax of 45 per cent, the

combination of corporation tax and the new rate of income tax, carried the tax figure up to 55 per cent.

The Government after one year only is attempting to amend the Act and increase the tax further. Since this tax was instituted only a year ago, it seems unusual that an attempt would be made to increase it by 6 per cent but we must bear in mind that the increase applies to the year of assessment 1971 only. The hon. Minister of Finance mentioned, in passing, that this matter of the tax which was authorised in December 1970 is now engaging the attention of the Courts; it has been brought by a combination of companies who take the view that this tax was unconstitutional, particularly in respect of retrospective collection.

The hon. Minister of Finance tells us that they have decided to do some rethinking on this matter. I understood him to have said that it was decided, after talks with the various companies and organisations that this question of retrospection in the collection of tax was not proper, nevertheless he says that this is to be done for 1971 and he has the tax retrospective again for the year of assessment 1970 because the Government is determined that the income tax should have been paid must be paid.

It is difficult to justify the Government's decision not to proceed with the law after discussion with the various people concerned; the members of the Government must have reached that decision because they realised that it was an improper thing to do and then they come at this stage and tell us that this clause is instituted in this amendment in order to ensure collection of the income tax which would have been collected if the law had been proceeded with.

That seems a situation which is very difficult to understand. You agree that something is wrong, you agree to amend it and in your amendment you have decided to put in a clause which forces collection of the year which you decided to waive. You decide that retrospection is improper and still in the new Bill which is before us today clause 3 states:

"Notwithstanding the provisions of section 10 of the Corporation Tax Act 1970, that section shall, in its application to the year of assessment commencing on 1st January, 1971, have effect as if the word 'forty-one' and the word 'thirty-one' were substituted for the word 'thirty-five' and the word 'twenty-five' respectively."

This, in fact, makes it retrospective again, as the hon. Minister of Finance says, to ensure that the collection of what it has decided to waive would be insisted upon.

**2.55 p.m.**

It is really very difficult to understand. It was agreed that this was improper. It was agreed accordingly, and in the Amendment we find a clause which forces the collection of the retrospective tax which the Government agreed was incorrect for that particular year. Certainly if it is admitted that an error has been made and as a result of this error the tax figures for that particular year are put out of balance there are other means of adjusting that.

Therefore, in these circumstances, bearing in mind the collection of the retrospective tax for 1970, because it is engaging the attention of the courts and, because it has been decided to withdraw this Bill which will immediately cause this action in Court to be withdrawn, this clause has been put in. The Government should realise that if this retrospective clause is included in this Bill the same companies will reinstitute another action in respect of this Bill and not of the other Bill.

The principle of retrospection must be contended with every possible force at its disposal.

How can you expect to pay tax on incomes which have already been paid out in the case of companies which have folded up? In the case of income for 1970 most companies will have called their meetings, will have declared their dividends and payment and the results of the figures will have taken place. If it was decided that the collection was unenforceable how would they expect that in this case, exactly similar circumstances, the collection would be enforceable. It must necessarily follow that if it was contested on the first occasion it will be contested on this occasion also. The Government must have come to the conclusion that this case which has been pending in the Court cannot succeed and as a result it is trying to put in another Bill. If this

cannot succeed what length of thinking would make the companies which brought the first action that they would not bring a second action in order to clarify the same point which has been repeated in another Bill which is supposed to amend the other one and withdraw it. The point is this: it is stated that it is for one year only, but to collect for that one year the principle of retrospection will have to be used when the companies concerned and all the people concerned must agree that that could not be fair.

Are we to understand that this is an attempt to dodge the anticipated ruling in the courts on this matter? The Government should see that this legislation is just a repetition in this particular clause of what took place before, and in the same way it will be objected to and it will not be possible to enforce it. Now that is as far as section 3 of the Bill is concerned.

Now we come to the question of property tax. It is stated here that the Amendment which is being put through is for the benefit of banks and insurance companies. At the time when this change took place where only a proportion of one's liability should be accepted when calculating one's net worth I am sure the whole House will remember the similar arguments which must be repeated.

We know that very strong representations have been made by the insurance companies and the banks and they have decided to withdraw it. But it is clear that if it is wrong for the banks and insurance companies - they are not the only people who lend money - it must be wrong for people who are not banks or insurance companies but also for companies which are operating in the various types of finance. If this goes through in its present form let us illustrate what is going to be the position.

The Government tells us that it is encouraging the small man to become a real man and, therefore, he thinks it turns around and attempts to tax him for something that he does not own. The small man may reach the stage where he decides to become a real man and therefore he thinks in terms of acquiring property a little bigger than what the small man, I presume, is intended to own. Let us see what is the position if a man who is normally referred to as a small man becomes ambitious and tries to buy a property worth \$120,000. He decides to pay \$120,000

for this property, but he does not have \$120,000. We all know that at present in order to encourage people to have their own property long-term mortgages are being instituted to a greater and greater degree. He goes to a mortgage institution, or what you will, and arranges to get a mortgage for \$100,000.

We all know that people can now get mortgages within \$10,000, sometimes \$5,000, of the value of the property which they want to buy. Let us see how this tax would affect that ambitious gentleman. In order to acquire this property for \$120,000 he gets a mortgage for \$100,000 which means that his own money in this property is only \$20,000. We come to the question now of property tax. We will work out what property tax this gentleman will have to pay at the end of the year. Because it states that it is for the purposes of computing one's assets, only 50 per cent of one's capital worth can be deducted from one's liability. We find that the amount which this person will be allowed to deduct would be of paying \$60,000. Being an individual he is exempt to the extent of \$50,000 and he finds himself therefore paying property tax on \$10,000. That is a man who is trying to improve his position businesswise.

Let us examine the position now with the man who has money. He does not need a mortgage. He owns a property free-hold for \$70,000 and \$200,000, and he is exempted from \$50,000. In actual fact the man who has money is in a better position than the man who is trying to improve his position. How can that be fair? If this measure is unsound for insurance companies and unsound for banks it must be unsound for individuals. If the Government wants to raise money by means of a tax and it wants to call it property tax the proper way for it to be done is to raise the property tax on the individual it wants to tax and that would have some merit. But do not put him in the position where he is paying tax on something that he does not own.

**3.05 p.m.**

It is quite clear the Government, if it does not arrive at it today, must arrive at it some future day. The members of the Government must admit this legislation was poorly conceived and poorly executed and they can raise all the money they want from property tax but not in this manner, not to be a laughing stock of the financial places of the world, where the Government is

taxing money and property when people own a very small proportion of it and paying tax on something they do not own.

In exactly the same way, there are companies which, the Government knows, are not insurance companies, they are not banks, but they lend money for housing. What happens is this. The person who takes a mortgage could only get 50 per cent rebate and the person who lends it has to show it in his books as his assets, therefore, he is obviously paying on a part of that money twice. The Government does not want to be accused of being a Shylock and using its power to do something that is obviously wrong. Therefore, if it wants to make money from property tax, do it properly, raise the tax if it wants, but make a person pay tax only on his true net assets.

We say 50 per cent today. The Government might raise it to 75 per cent tomorrow. There is nothing under this principle to stop the Government raising it 200 per cent but does the Government have to reduce it to an absurdity to be able to see that it is wrong? It was wrong in the first instance, the companies and banks have shown the Government it is wrong. What do the individuals and ordinary companies that are not banks and insurance companies, do to make the Government see that it is wrong, other than ask the members to use their own intelligence and see that the principle cannot be defended?

The whole clause which originally amended section 2 of the Property Tax (Amendment) Act 1970, which made this situation possible, should in fact be deleted and the Government, who seems to be taking the opportunity to go through the motions to clean up this taxation, should not be satisfied with an amendment of this situation but the amendment should take the form of a complete deletion of section 2 of the Property Tax (Amendment) Act 1970. Only then could anybody say the Government had decided it was wrong and is now trying to do the right thing.

We come to this question of amendment and clean up that has been spoken about in the terms of the hon. Minister of Finance. The hon. Minister of Finance must be aware that there is a lot of argument and dissension on the question of interpretation by the Commissioner of Income Tax on this question of earned income. It is easier for people wherever possible to take an

example from somebody else who has gone through the difficulties of creating income tax laws. The original principles have to be changed and when a Government is satisfied that the legislation was properly conceived, rather than thinking of legislation completely new, it normally uses reference books, adopting the wording or phrasing wherever that legislation is available.

It would appear that one of the duties of the Government at the moment in getting these Amendments through, if it says it is taking the opportunity to tidy up the Income Tax and Property Tax Acts, should be to remove the ambiguity which now exists in the mind of the Commissioner of Income Tax as to what earned income means.

The Commissioner of Income Tax interprets earned income to mean income earned by salary and wage earners, but the 5 per cent extra allowance which was brought in by the Income Tax Act of last year, when a taxpayer was given certain reliefs, does not apply to working partnerships where two partners run a business, one or both of them work like stags instead of employing people to do the work. They are trying to make themselves real men, because they are small men, they cannot afford to employ people at all levels to do this work. The interpretation of the Commissioner of Income Tax in this instance is that this does not cover a working partner; this was intended for wage earners.

I should like to quote from page 21 of the *British System of Taxation* from which, from the wording of our Act, this clause up to the point where it stops seems to have been taken almost word for word. This is published by the British Information Services through the Central Information Office, London.

"Earned Income Relief. Earned income is that income for which the taxpayer has worked or rendered personal service. It includes wages, salaries, pensions, bonuses, directors' fees, business profits, benefits in kind, and income from patent rights..."

which obviously does not apply to us. It does not stop where ours stops, saying, "arising out of individual pensions, superannuation, etc. It continues and makes it quite clear what earned income means.



In all known responsible countries in the world earned income is deemed to be income earned by people who work in the business irrespective of whether they are partners or they are not partners. They are just wage earners or salary earners, the result is, the persons who now work in this manner are not allowed their 5 per cent deduction.

We in this section of the House will put up an Amendment to this clause with the intention of clarifying this position because we believe it was at all times the intention of the Government to follow one of the places from which the original Act was copied but it was not the Government's intention to tax people who were not taxed by the implementation of a similar Tax Ordinance in England. We hope when this Amendment is put up, it will be accepted in good faith because we believe it is necessary in order to avoid unnecessary argument on what earned income means. In Carter's Advanced Accounts at page 909, I am sure all the accountants here must be familiar with Carter.

**Mr. Speaker:** Do you not think that that could be well argued when you are moving the Amendment and not while we are on the general merits and demerits of the Bill?

**Mr. Sutton:** And in the committee Stage, Sir, I am dealing with broad principle, I am not actually putting in the Amendment. I am only saying when the Amendment is put in I will have made clear why that Amendment has been put in, in order to show that this was not just taken from the British system of taxation but it was also taken from the well known principles of accounting where taxation is necessary. You will find that the words in Carter's Advanced Accounts are almost the exact words in dealing with the subject with which the British system of taxation is concerned.

**3.15 p.m.**

I read from page 909:

"Earned Income: This includes salaries and wages of employees, pensions, etc., salaries to public officers."

**Mr. Speaker:** Hon. Member, Mr. Sutton, is it not the same thing to which I drew your attention a moment ago?

**Mr. Sutton:** This is done, sir, because we are often accused of situations that do not exist. I shall get an opportunity one of these days to clarify the point of misrepresentation which I was accused of a few days ago. That is why I am doing this so extensively.

I have made the point, and I hope that the Government will not only consider making this allowance to the bank and to the insurance companies, but that it will also consider removing the clause itself and so permit a degree of honesty to take place in the legislation.

**Mr. Speaker:** Hon. Member, Mr. Sutton, I wish to remind you that you have already spoken for 25 minutes. You have five minutes left. You can make use of the five minutes to wind up.

**Mr. Sutton:** Thank you very much, sir. One would have hoped that when these two Bills were being tidied up the Government would have taken the opportunity to tidy up another section dealing with income tax. I did not take the trouble to speak on this yesterday because no point could have been made in the three or four minutes which would have been granted to me under the conditions that existed when we were trying to finish the Budget in such a hurry.

**Mr. Speaker:** Hon. Member, Mr. Sutton that is not a correct statement to make. Time was allocated and had to be complied with. There is no reason for that statement.

**Mr. Sutton:** Because I knew that time was limited I made no attempt to speak. Opportunity should be taken to amend the Income Tax Ordinance. [*Interruption*]

**Mr. Speaker:** Order, please! Let the hon. Member continue. He has only four minutes to go.

**Mr. Sutton:** It is felt that opportunity should be taken to amend the section in the Income Tax Ordinance which creates a difficult situation when assessments are made arbitrarily or when assessments are made and not accepted by the persons involved.

It should be pointed out that what the hon. Minister of Finance said yesterday is perfectly true. That is the law, but if one looked at the mechanics of it, one would find that 90 per cent of these objections do not, in fact, reach the Board of Review.

The reason for the bottle-neck is that when objections are filed they remain for two or three weeks on the Commissioner's desk or in the hands of one of his officers. The Commissioner, or whoever is empowered to look at these things, should be told that he has to decide within "X" hours. Within that time he should say whether or not it is going to be allowed and then it should go to the Board of Review, where applicable. I remember that the hon. Minister of Finance said quite distinctly a year ago that there were so few cases in the Court because the Board of Review was able to get rid of most of the objections to the satisfaction of most people concerned.

The present bottle-neck is mainly caused by the fact that points of objection do not reach the Board of Review. In addition, when the objections are put in, the taxpayer pays the amount of tax on which he agrees and leaves the amount in dispute for review. If the objections were sent to the Board of Review immediately, the accusation that people are not given exit permits for these reasons will fade away overnight.

I hope that the Government will give attention to this section whenever it has an opportunity to go into this matter again.

**Mr. Speaker:** The hon. Member, Dr. Ramsahoye.

**Dr. Ramsahoye:** Your Honour, there is no need to recount all the arguments, in relation to this matter, which were raised when the Budget Speech was being debated in this House, but it is perhaps in the national interest that the Minister and the Government ought to be reminded that plans to set the economy in a certain direction do not always go as we think and there ought to be made allowances for certain margins of error in calculation.

This legislation implements the decision to increase certain taxes on companies among other things. The then hon. Minister of Finance, in his Budget Statement dealing with fiscal

policy for the year 1970, had indicated that the whole object of this measure was to deflect needed capital, which was being used up in commercial activity, into the industrial and agricultural sectors.

This was distinctly one of the reasons given, on page 53 of the Budget Speech for the year 1970, for the enactment of this piece of legislation which has now come before us but, in fact, as we all know, the legislation has proved a tremendous disincentive to companies and other people carrying on business. I think that the objectives which were envisaged when the legislation was first conceived have not really been met.

I do not suppose that the Minister in this case can do otherwisethan propose and ensure that the legislation is enacted, but the time has come for a review of the position in economic terms. In this House we do not always get enough of the facts and figures to guide us. The other day we had a statement on devaluation read by the hon. Minister (Mr. Hoyte), but we were not given certain figures, to wit, we were not told how much more this country will have to spend for consumer goods as a result of the devaluation; we were not told by how much our public debt will go up in capital terms; we were not told by how much our annual costs will go up.

Similarly, in this case, with this taxation on companies, the time has come when we ought to be told in real economic terms what it means to the economy, so that those foolish ones of us who are sitting on this side will be able to appreciate what exactly the Government has in mind in introducing these measures. If we try to do this sort of work, then we can go right and we can reach agreement speedily on whether the thing is necessary in the public interest or not.

But, if we are lazy and do not do our homework, then we never know where we are. We are like men groping in the dark. I would very much like to know where this taxation is going to get us; how much more it is going to bring into the coffers of this country and how much capital it is going to divert and to where. As it is, I do not see that it will have any real effect other than to depress the economy and lead to more retrenchment.

There are two things which guide a Minister in making his financial proposals in relation to the private sector. The first is the public interest of his own country and the second is the

alternative possibilities open to men in other countries in case they are dissatisfied here. You cannot neglect the second alternative because what you will find is that if people find that it is not good enough here, they will tend to go and invest in other places and our people will be left without work.

**3.25 p.m.**

There are certain restraints; there are restraints imposed upon the widest of powers and those of us who are exercising power must seek acutely for those limitations wherever they exist.

Now, certainly I wish the proposals well, but I leave the subject still in the dark because my own estimates of the figures must be far different from the estimates which the Minister has in mind. Before I pass, sir, it is not to be said that we in any way disagree with the imposition of controls upon allowances for office expenses overseas and so on. The Minister is quite right in attempting to control those figures because in them could be hidden expenses and charges which operate to the detriment of the revenue. That is a correct principle. And it is a very good thing that the Government has seen fit to bring in that sort of control. One must concede it to the Minister in relation to the particular proposals in this Bill.

As I pass from that, we go to a provision which upon a fair and just analysis by all the Members of this House it cannot escape us that there is certain unfairness in the proposals to amend section 19(b) of the Income Tax Ordinance. As I understand it, people who have made attempts to house themselves after the year 1964 are to get tax relief on the interest which they are paying to the capitalists. The revenue by these terms is, therefore, making a clear distinction between workers who tried to house themselves before 1964 and those who tried to house themselves after 1964. It is an obnoxious distinction. It is a distinction which all of us in this House should reject; we are supposed to be fifty-three plus other members of the House in other offices. We should not allow a thing like this which is obviously very discriminatory to pass into the records of this Parliament.

Why the distinction? People are all working presently. That is the common factor. All are paying interest to the capitalists; all are housing themselves but because some of them have been doing it before 1964 they are excluded from relief. Others have been doing it after 1964; they get relief. I should like it to go down in this House that I have vigorously opposed that discrimination and for us on this side - I now speak for all of us - we too vigorously oppose that discrimination. It is obnoxious. My learned and hon. Friend the Attorney-General knows that the constitutional guarantees against discrimination do not operate in an area like this.

But it is an area in which there is need for justice as in other areas. I cannot see how men with a social conscience will allow that discrimination between people who housed themselves prior to 1964 and those who housed themselves after 1964 to remain in the Statute Book.

Sir, this legislation as I see it was enacted in the year 1966. Whatever the Finance Minister had in mind for this distinction then cannot subsist now. Now that a Government which says it is a progressive Government is about to amend it, well then I think that the Amendment should be an agreed Amendment and an Amendment which is non-discriminatory. The Government would have all our support in this. But if we are wrong, if my analysis of the situation is wrong, I am glad to be able to sit corrected. If some good reason can be shown for the discrimination I would certainly be glad to hear of it and to stand corrected if it is valid. At the moment I cannot. I think that the relief should be given to every toiler who has to pay interest to the capitalist for the house in which he lives.

Your Honour, reference has already been made to the question of the limitation on deductions for the property tax. We on this side have criticised this provision. The hon. Minister must have had good reason for thinking that he needs to impose a restriction upon the amount of debts which are deductible for purposes of calculating the property tax. But as the hon. Member Mr. Sutton has said *carte blanche* provision can wrought terrible hardships. I shall be very grateful, speaking for this side, if the Minister will try to review it to see whether it could be made less hard upon people who really have genuine debts, which ought to be deducted. But I would concede that it is not a matter of very great moment to the masses of people in this country because the property tax is a small tax and there are not many people who will be

privileged to have more than \$50,000 worth of property in order to have to pay it; and it is very small. It is a matter which could engage the hon. Minister's attention at some time because it is a matter which, although not pressing, could involve some hardship some where.

Your Honour, in view of the fact that I would wish to move an Amendment in relation to section 19(b), I think I have said sufficient at this stage.

**Mr. Speaker:** Does the hon. Minister wish to reply?

**Mr. Hoyte:** Your Honour, the great problem in replying is that hon. Members have assumed a roving commission and have not really stuck to the Amendments of the proposed Bill. It occurred to me while the hon. Member Mr. Sutton was speaking that if the business community were present in this House they would have shuddered at the fact that he was advocating their cause.

I tried to explain in opening the debate that the provisions in this Bill arose out of very careful and protracted discussions between the Government team and the lawyers and accountants representing the business people who have brought the action.

I do not wish to say anything more except to correct what appears to be an erroneous impression again by the hon. Member Mr. Sutton that the business people have undertaken to withdraw their action. The Government is not concerned with whether or not they withdraw; their action. These compromises were not made because Government, as the hon. Member said, was satisfied as to the wrongness or illegality of the provision. These Amendments were made in a spirit of compromise. I do not think that any lawyer who is worth his salt can get up and say that retroactive legislation *per se* in relation to tax matters is illegal or unconstitutional.

The point made by the business people was that the question did not relate really to the quantum of the taxes. Some of them complained that they had distributed already. And Government's point was that in those circumstances, it would not proceed with respect to the others and it would adopt an alternative device in relation to the recoupment of these taxes. There is no question of any apologies for that.

I was a bit alarmed to hear the hon. Member Mr. Suttons, as I understood him, that he or his party had made the point about the statutory funds of insurance companies and the deposits of banks. That is why I looked through the *Hansard* to see whether that was so because both the insurance companies and the banks admitted that this was a point which they overlooked. They overlooked it when they were having discussions with the Fiscal Review Committee before the legislation was proposed, and they overlooked it after the publication of the Bill. It was only after the Bill became law, that they recognized the consequences of the provisions for their type of business and sought an interview with me to put forward their case. Insurance companies and banks are in a different position from other types of commercial concerns, because when one looks at their balance sheets, one finds as part of their debts, their statutory fund and their deposits.

I would just wish to reply to the point made by the hon. Member Dr. Ramsahoye in relation to the relief which we propose to give to people who buy new houses, thus putting them on the same footing as people who build new houses. Hon. Members will know that in 1966, in order to encourage and stimulate the building of new houses, Government introduced legislation to allow the interest paid on mortgages by people who built new houses as residences to be deducted for purposes of income tax. We consider that there is no difference between a person who builds a new house and a person who buys a new house and, therefore, we seek to extend the same relief to the person who buys a new house.

Obviously, one has to draw the line somewhere. If one goes back to 1950, someone will say he bought in 1949; if one goes to 1949 someone will say he bought in 1940 and is still paying interest. One knows what happens with some people who buy houses. They continue paying the mortgage interest from year to year without repayment of the capital. One finds people who have been in houses for thirty years or longer who have not repaid their capital and who would make the same application for relief. All I would say is that we have attempted to extend the area of relief and I think some credit is due to the Government.

*Question put, and agreed to.*



*Bill read a Second time.*

*Assembly in Committee.*

*Clause 1 and 2 agreed to and ordered to stand part of the Bill.*

*Clause 3*

**Mr. Hoyte:** Mr. Chairman, I should like to propose an Amendment to clause 3 by adding the *proviso* contained in the note of the Amendment circulated. The purpose of the *proviso* is to give companies a chance of proving that they were not liable to pay withholding tax during the period 1st January, 1970 to 11th December, 1970.

As the clause now stands, it would affect all companies but there may be companies that may wish to prove that they were not so liable and we seek by means of this *proviso* to give them that opportunity.

Secondly, some companies did pay withholding tax between the date of the passage of this Bill in December, 1970, and the end of the year, and we wish to give those companies the opportunity to set off the amount they have paid against any amounts which would be leviable under clause 3

*Amendment –*

That a colon be substituted for the full stop at the end of the clause and the following *proviso* be insert

“Provided that-

- (a) the increase in the corporation tax imposed by the foregoing provisions of this section shall not apply to a company which satisfies the Commissioner of Inland Revenue that the company would not have been liable for the payment of withholding tax pursuant to section 27B of the Income tax Ordinance if that section had been in operation during the period commencing on 1st January, 1970 and ending on 11th December, 1970;

- (b) any amount received by the Commissioner of Inland Revenue from a Company as withholding tax pursuant to section 27B or the Income Tax Ordinance during the year 1970 shall be set off against the increase in the corporation tax payable by virtue of the foregoing provisions of this section.

*put, and negative.*

*Clause 3, as amended, agreed to and ordered to stand part of the Bill*

*Clause 4 agreed to and ordered to stand part of the Bill*

**3.45 p.m.**

### **Schedule**

**The Chairman:** Hon. Member, Mr. Fielden Singh, I think you wished to move an Amendment.

**Mr. M.F. Singh:** I beg to move the Amendment standing in my name, which is that there should be added the words

"or arising to the individual from any trade, business, profession or vocation"

after the words "past services" at the end of the amendment to section 16 of the Income Tax Ordinance, Chapter 299.

The original legislation has been interpreted by the Commissioner of Inland Revenue to apply only to people who earn either a salary or a wage. Opportunity is now being taken, in this Amendment that is now before the House, to include in the category of people to benefit, the pensioner and the person drawing superannuation, other allowances, or deferred pay given in respect of past services.

We on this side of the House feel that there is an element of discrimination in this. Why is it that the category of people to benefit from this allowance of five per cent on income should only be wage-earners and pensioners? What about the self-employed

person? What about the small men who are selling in the Bourda Market and in the Stabroek market?

What about the small shoemaker? What about the small market vendor? What about the small lawyer? Why are they to be penalised? *[Laughter]* Hon. Members of the House laugh, but you and I, Mr. Chairman, know that there are two categories of lawyers in this country. There are those in high strata who earn a lot of money and there are those who merely exist.

**The Chairman:** I am sure, hon. Member that you fall in the first category.

**Mr. M.F. Singh:** At the moment I am a wage-earner. I fall within the category that will get the relief. I am dealing with the lower strata of lawyers who are barely able to make a living and who earn just enough to make two ends meet.

Why should ordinary people be penalised because they are making a living on their own and not working with somebody else?

As my hon. Friend, Mr. Sutton, said, two people may get together in a partnership to work for themselves. They are earning an income cannot afford to employ outsiders; they employ themselves. As I understand it, according to the Commissioner of Inland Revenue, such people will not be entitled to benefit from this five per cent relief. Why?

We would like to have it abundantly clear that the benefit will apply to self-employed persons, to the people who come together as partners in order to make a living. Perhaps the majority of people in this country are small self-employed persons for instance, the farmers making a living from the land. There is much accent on farming these days. People are advised to go to the land, to forget about the Water Street jobs, to forget about Sandbach Parker and those people who want to close down their businesses. People are told to go and produce. ..

The Government should give them an incentive to produce. Why give an incentive only to people who work in Water Street, when there is so much talk about being self-employed, about finding work for yourselves, about not being shopkeepers?

I was speaking to an hon. Minister the other day and he said that we needed a transformation from the shopkeeping business to the manufacturing business. The Government wants to place the accent on manufacturing and producing, yet it is penalising people for doing that. If the wage-earner gets a benefit of five per cent and the man who is manufacturing, or the man who is producing, does not get the benefit, then the Government is penalising them.

I am told that one argument against including the self-employed persons is that self-employed people do not pay income tax. The answer to that is not to penalise them, but to so gear the machinery that the tax will be collected. Do not hide the inefficiency of the revenue collecting department by penalising these people. If it is the argument that self-employed persons do not pay income tax and must be penalised, then you are saying that because the Inland Revenue Department does not function properly, then these people must be penalised for the inefficiency of that department. This is entirely wrong.

I appeal to the Government to accept this Amendment. Streamline the Income Tax Department and give an incentive to producers, to self-employed so that they can share, without discrimination, in this five per cent tax concession which the Government has thought fit to give as a concession to employed persons.

*Amendment proposed*

**Dr. Ramsahoye:** I rise to support the Amendment moved by the hon. Member, Mr. Feilden Singh. I think that the principle which he endeavoured to advance is correct.

The distinction between income which is earned as a result of service with an employer and income which is earned through self-employment is nebulous. It is no real distinction at all and for the tax-gatherer to make that sort of distinction is actually for him to wield an instrument of oppression.

In the terms set out on page 66 of the 1970 Budget Speech, this earned income allowance goes only up to \$10,000. It means that it is a \$500 allowance to the maximum and it, therefore, is an allowance which small self-employed people, as the hon. Member Mr. Feilden Singh said,

will enjoy. I think it will definitely be a good thing and most appropriate if we were to concede that all people who earn income, irrespective of whether they earn it by self-employment or by service under a master, should get the allowance.

It is obviously discriminatory and now that we are supposed to be feeding, clothing and housing ourselves by 1976, we must rely more than ever on self-employment. It is in keeping with the new policy adumbrated by this Government that this principle ought now to be conceded. It is an obnoxious discrimination which we think should be removed from the statute book.

**3.55 p.m.**

**Mr. Hoyte:** Mr. Chairman, the points made by the hon. Members Mr. Feilden Singh and the hon. Member Dr. Ramsahoye are not unmeritorious. But these are matters which are exercising the attention of the Fiscal Review Committee. As hon. Members know, we have been looking continuously at the whole system of taxation and particularly at the system of income taxation. One of the things we have to do is to readjust the tax bands. We do not want to get into little *ad hoc* changes here and there to complicate the system still further. What we have sought to do here is to remove the more obvious anomaly affecting people with fixed incomes, so that the wage earner and the person in receipt of a pension are in the similar position of receiving fixed emoluments. We have sought here to correct that more obvious anomaly. As I said the point raised is not one without substance; but I would prefer, sir, for that matter to be dealt with in the general changes which we hope the Fiscal Review will come up with.

For those reasons, I regret that I cannot accept the Amendment at this time. But most certainly I will bring it to the attention of the Fiscal Review Committee. Indeed I know it is one of the matters which has already been brought to their attention, but I will do so again.

**Mr. Chairman:** Do you wish to say anything further hon. Member Mr. Singh?

**Mr. M.F. Singh:** Mr. Chairman, while the grass is growing the horse is starving.

**Mr. Hoyte:** I will remind the hon. Member that we have given substantial measure of tax relief to the very small people for whom he has constituted himself an advocate here today.

*Amendment –*

That the words "or arising to the individual from any trade, business, profession or vocation" be added after the words "past services" at the end of the amendment to section 16 of the Income Tax Ordinance, Chapter 299.

*put, and negatived .*

**The Chairman:** The hon. Member Dr. Ramsahoye.

**Dr. Ramsahoye:** In moving this Amendment which stands in my name I wish to explain the circumstances of the enactment of the legislation which the Government now seeks to amend and to explain further why I feel that this Amendment would remedy an injustice done to many earners of income in this country today.

As the Minister of Finance said the Fiscal under the Coalition Government had thought it expedient to give some sort of incentive to people who were constructing new houses to house themselves; and in 1966 a measure was passed. It is now section 19(b) of the Income Tax Ordinance which provided substantially that where a new building was constructed after the 31st December, 1964, by and through a loan required for that purpose and in which the borrower was using it as a residence, he was entitled to tax relief on the interest which he paid the lender. The year 1964 was therefore the barrier which entitled the taxpayer to relief. Now the Government proposes an Amendment which will have retrospective effect to the date of the original legislation and that Amendment is to the effect that where the money was borrowed to purchase a new house the tax relief should be granted just the same. Well, I can see no wrong in that proposition. I will gladly concede to the hon. Minister that that Amendment obviously goes somewhere to remedy an injustice and I congratulate him.

The next point is why we must distinguish between a man who is presently paying interest to house him where he got his house before 1964 and a man who got his after 1964. There is no ground for the discrimination. Both men are working at the same time; both are paying interest to house themselves. And because of a mere fortuity that the one acquired his house on or before 31st December, 1964 he is denied relief even though God knows he probably needs it more than many of those who are getting after 1964.

It is a great public injustice. It is an injustice to all the people of this country who are housing themselves or trying to house themselves and this injustice will be remedied by this Amendment which I now attempt to put forward. It is a fair Amendment. It is a reasoned and reasonable Amendment. It is an Amendment which seeks to remedy injustice; it is an Amendment which should appeal to any man who has a social conscience in this so-called egalitarian society.  
[Laughter]

Your Honour, it is difficult to distinguish between what is acclamation from the Government Benches and what is agitation in these circumstances. Those who on the other side exercise authority and have the power to remedy inequalities ought to see in this measure something which they can grasp with both hands.

*Assembly resumed*

*Sitting suspended at 4.p.m*

**4.25 p.m.**

*On resumption --*

*Assembly in committee at 4.p.m*

**The Chairman:** When the Suspension was taken the hon. Member Dr. Ramsahoye had finished speaking on the amendment. I think the hon. Member D.C Jagan was about to speak on the Amendment. The hon. Member Mr. Feilden Singh.

**Mr. M. F. Singh:** Mr Chairman, I would like to second the Amendment standing in the name of my learned and hon. Friend Dr. Ramsahoye. It may be that in 1966 what was being sought was the quantum of loss of revenue to the country by the enactment of the provision at the time when it was generally accepted that the money was vitally needed to replenish the Government coffers. But the stark fact is that the benefit post 1964 is definitely discriminatory to, for example, the man who got his loan, his mortgage and built in 1963. The man who built in 1963, who is paying his mortgage today will not be able to benefit. There is the man who built in 1964, for example, is able to benefit. This is a clear case of discrimination. It cannot be otherwise. I should like to recommend to the Government for favourable consideration the Amendment standing in the name of the hon. Member Dr. Ramsahoye.

While I am it I may say too that in my opinion limiting the benefit to new houses is also discriminatory. In that if a man builds a house and a few months after because of any particular reason he wants to emigrate out of the country he has got this new house, lived in it perhaps for five months the person who buys that new house from him and takes over and assumes the mortgage will not be able to benefit from the tax concession even though the house is new in the sense that it has only been put up a couple months and lived in a few months, it must be discrimination. One would hope that the Government would take cognizance of this obvious discrimination and do what is right by accepting the Amendment.

**Dr. Jagan** *rose*

**The Chairman:** Do you wish to speak on the Amendment?

**Dr. Jagan:** Yes, Sir

**Dr. Ramsahoye:** Your Honour, I thought that it was now for the hon. Minister.

**The Chairman:** The position as I understand it hon. Member Dr. Ramsahoye has moved an Amendment; the hon. Member Mr. Feilden Singh has spoken on it and the Amendment would be proposed so as to give an opportunity to those Members who wish to speak on the Amendment. As I understand it Dr. Jagan wishes to move a further Amendment.



**Dr. Jagan:** No. I merely want to make a small comment on this matter.

**Dr. Ramsahoye:** That will come up later.

**Dr. Jagan:** The hon. Minister was in fact arguing a while ago in favour of the Amendment of my colleague when he said that there are many people who have borrowed money to build houses and they continue year after year paying simply the mortgage charged interest and not being in a position to be able to pay the capital sum.

**4.30 p.m.**

That certainly indicates that man is catching hell. Things are bad with him because if he can never come to the point where he can pay back the capital, certainly he needs a lot of help. That is why I say the Minister was arguing by using that example. I think the Minister would very well agree to include all the categories, *in toto* leave out, as the hon. Dr. Ramsahoye is suggesting, the date qualification so that whoever is paying interest will be allowed this facility.

**Mr. Hoyte:** In reply to the hon. Leader of the Opposition, I wish to say that the Amendment is fraught with difficulties. At present, we have a base year in 1964. Where are we going to draw the line? Then we have limited the concession to new units and I think that was the rationale behind the granting of the concession, to encourage people to put up new buildings, in other words, to add to the nation's housing stock and not to give the person a relief because he has bought a house.

This matter cannot be dealt with in this way. It would require very careful consideration. I myself would benefit if the Amendment were accepted, but I would point out that people have made representations to me for relief where they have, in fact, carried out major reconstruction. They have not in fact put up a new house, but perhaps extended; they have put on a bottom flat; they have converted a one-bedroom house into a three-bedroom house. All these people are, in fact, making a contribution to satisfying our housing needs. One has to look at the situation very carefully.

We are, at present, in the Ministry of Finance trying to finalise the details of incentives to people who will get into this business of adding to the nation's housing stock. I will promise hon. Members to take note of what they have said here today to see whether we can do something along the lines suggested, but I do not think that at this stage I will be willing merely to put in this blanket kind of Amendment, which means that anybody at all, no matter how long he has had this House, can come along and say "Well let my mortgage repayments be tax free". I would like to have the opportunity to give more careful consideration to these proposals.

*Amendment*

That "(b)" be renumbered as "(e)", and the following be inserted as "(b)", "(c)" and "(d)" in the Amendment to section 198 of the Income Tax Ordinance, Chapter 299:

"(b) Delete expression "has after the 31st December, 1964."

(c) Insert the words "occupied or" after the word "building" where it first appears

(d) Delete the word "new" where it first appears."

*put and negative*

**Dr. Jagan:** I wish to propose an Amendment to section 19B by the deletion of subsection (b). The reason for this is to allow a concession to be granted for the purchase of any building, because it seems to me difficult to make a real distinction between a new building and an old building for this reason. The hon. Member Mr. Singh a moment ago asked what you regard first of all as a new building. A building which has been built and occupied a few months, is that a new building in the terms of the Act?

There may be cases where a man has a building, perhaps too small for himself and his family, he may have built it some time earlier, and he sells it to another man and he goes on to build another house. Why should not a person who has bought from this man also get the same

concession as the man who is going to build? It seems to me that once you have a growing population, especially people moving from the country and coming to the urban areas, buildings going up in this sort of situation, the Government should make the concession applicable to all kinds of purchasers.

A person buys a house and by the mere fact that he buys a house, the person who would have sold it most likely will add to further construction in the country. It is not going to happen in 100 per cent cases. One can argue he can take the money and go into some kind of production. Even then, if he were to do so, it may not directly help the housing situation but it will help the economy and indirectly help the housing situation. The factor in being able to build is not only just loans but having the economy generating wealth sufficiently, so that money will become available by one form or another for the purpose of house building.

I raise this point to show that if the facility was granted to purchasers of any building, for the purpose of the person living in it — I am not thinking now of a person wanting to become a landlord, and it is a moot point whether he should not be granted the same facility. He may have taken into consideration whether it is more economic to buy an existing house or whether it is not within his power to build a new one, and so on.

4.40 p.m.

Therefore I see no reason, if he has to become indebted, why he should not be given the same facilities. In the long run, the money that will become free, so to speak, or the money that will be obtained by the original owner, is most likely going to be used for the further expansion of housing. I, therefore, move the deletion of this sub-section. Perhaps the Government may wish to give this some consideration. The Prime Minister is not here and maybe the Minister would like to consult him.

*Amendment proposed*

**Mr. M.F. Singh:** I would like to second the Amendment moved by the hon. Leader of the Opposition. Without repeating the points made by the hon. Leader of the Opposition in support of the Amendment, I should like to say basically that the benefits should not be tied to a new

house defined as a house which had never been lived in before. This seems to me to be basically wrong.

A new house is being defined as a house that had never been lived in before, but a new house could be one that had been lived in for a few months by someone else. Why should a person who purchases from someone who had lived in a new house merely for a few months not be entitled to benefit in the same way as the person who had lived in it for the few months?

**Mr. Hoyte:** I listened with interest to the contribution by the hon. Leader of the Opposition and by the hon. Member, Mr. Feilden Singh. I would reiterate that the policy behind this section is to encourage the building of new units.

The Amendment, which is now being sought, would, in effect, change the policy behind the legislation and hon. Members, I am certain, will appreciate that one, cannot, by a side wing, introduce a new policy into legislation. This must be a matter for careful consideration. It must be a matter which has been properly submitted in due form.

I will again reassure hon. Members that in the proposals we have now for incentives for house building and house ownership, we will take into account all that has been said here today.

I am grateful for the new dimension which hon. Members have put on this seemingly simple Amendment, because the more one looks at it, the more one realizes that there is a great deal of scope for the improvement of relief offered and for new forms of incentives to add to the nation's housing stock.

*Amendment put and negatived*

**The Chairman:** Will the hon. Minister move the Amendment standing in his name?

**Mr. Hoyte:** Mr. Chairman, may I first of all draw attention to section 27A (b) in the Schedule and ask for a correction. The printer's devil seems to have been at work? The third line should be the fourth line. The lines have been transposed. That section should read:

"(b) The words 'and has done so after the enactment of this section' shall be substituted for the words 'or has done so after the commencement of the accounting period for the year of income 1970' in subsection (4) (a)."

I ask that that correction be made.

I beg to move an amendment, namely, the insertion of section 6(2) into the Schedule immediately after section 6(1). The purpose, again, is to clarify, at the instance of the persons who brought the action to which I referred, the meaning of that particular section. It was agreed that the word "for" should be replaced by the words "in the preceding year" and that would make it abundantly clear.

*Amendment put and negative.*

*Schedule, as amended, put and agreed to.*

*Assembly resumed.*

*Bill reported, with amendment; as amended, concisured; read the Third time and passed.*

## APPROPRIATION BILL

A Bill intituled:

"An Act to provide for the issue from the Consolidated Fund of the sum necessary to meet the expenditure (not otherwise lawfully charged on the Consolidated Fund) of Guyana for the financial year ending 31st December, 1972, Estimates whereof have been approved by the National Assembly and for appropriation of that sum for specified purposes in conformity with the Constitution." [*The Minister of Finance*]

**Mr. Speaker:** Hon. Minister of Finance, we have been able to obtain the Appropriation Bill. Perhaps this might be a convenient time to dispose of Second and Third Readings.

**Mr. Hoyte:** Mr. Speaker, I ask that the Appropriation Bill, 1971, be read a Second time.

*Question put, and agreed to.*

*Bill read a Second time*

*Bill read the third time and passed are printed.*

### STATE PENSIONS BILL

A Bill intituled:

“An Act to regulate the awards of State pensions in respect of service to the state in certain special circumstances.” [*The Minister of Finance*]

**Mr. Hoyte:** Mr .Speaker, in every country there are people who give public service, in one way or another, of distinction to their fellow citizens and to the state. Those persons very often do not fall within the official class. They neither are not public servants nor are they members of any governmental or quasi-governmental institution or agency.

**4.50 p.m**

But, sir, that fact in no way diminishes the quality of the service and the importance of the service which they render the State. From time to time many such persons, in spite of their distinguished service, sometimes because of the very way of life they have chosen in the service of the State, find themselves in later years in straitened circumstances and this Parliament has from time to time in the history of this country brought special legislation to grant pensions to such citizens.

What this Bill seeks to do is to formalise the procedures for granting State pensions to persons who have given out-standing service to the State and whom the State wishes to honour, not only by awarding national honours but by ensuring that in their later years they are saved from the indignity to which very often impecunious circumstances reduce people.

The scheme of the Bill envisages that where the President considers it desirable, having regard to the nature and quality of the service rendered to the State by any persons, he may designate such service as qualifying for a State pension. I have in mind service which a citizen may offer in the field of social and community activities, service to trade unions and trade unionism. We remember people like the late Hubert Nathaniel Critchlow who is acknowledged as one of our outstanding citizens who made a sterling contribution to the evolution of trade unionism and, indeed the evolution of the political and national life of the country. If I am not mistaken, I believe the State did award him a pension in his old age when he found himself in straitened circumstances.

But, as the nature of our society changes, we find more and more citizens becoming involved in public service, in the wider, meaning of that term, in one way or the other—distinguished men of letters, artistes, teachers outside of the Government Teaching Service, trade unionists, sportsmen, people of that quality, who, perhaps today are honoured and respected, but when they have passed the prime of life may well find themselves in straitened circumstances. The State needs to do something for them.

Therefore, this Bill sets out the procedures by which the Government through this Parliament can award a pension where the President certifies that the quality and nature of the service rendered by such persons ought to qualify for a State pension. When the President so designates, the responsible Minister may by Order award a pension to that person. That pension under the proposed law cannot exceed the maximum pension payable under the relevant legislation to hon. Members of this House, who do not fall in the second category to the Schedule of that legislation. The Order, of course, must be laid in this House and it will be subject to a negative resolution.

The Bill seeks to ensure too, sir that a pension may be awarded to the widow or children and other dependents of the person to whom a State pension has been awarded. In conclusion, I think that every modern State must have regard for its citizens and particularly for its outstanding citizens who have laboured on behalf of the State. In this respect hon. Members may well find that this Bill is a commendable one.

**Mr. Speaker:** Hon. Members, before I propose the question that the Bill be read a Second time, I should like to draw your attention to Clause 3 sub-paragraph (b) of subsection (2), I think a line has been left out by the printers. In the third line, after the word "body", the following words should be inserted: "of being gainfully occupied and that such infirmity". Will you kindly note the correction?

*Question Proposed*

**Mr. Jagan:** Mr. Speaker, the hon. Minister in moving the Bill said that there may be occasions when persons might be qualified to be given a State pension, but the Bill drafted would give the Government power to award a State pension to anyone the Government feels should be granted a pension. Because the term used is "having regard to the nature and quality of the service rendered to the State". What would be the yard stick to decide on the nature and quality of the service? We would have no objection, as the hon. Minister said, if a person has rendered service to the State. There comes a time when he should be granted some assistance and that such person should be assisted. But the way in which the Bill is drafted the Government could assist any of its supporters.

Just a few days ago I think it is the hon. Minister of Information who said there is hardly any difference between the P.N.C. and the Government. If that is correct and that is his interpretation it would follow also that a P.N.C. activist, an organiser - -

**Mr. Speaker:** Did the hon. Minister really say that? What he said was that the policy of the Government and that of the P.N.C. party is the same.

**Mr. Jagan:** I interpreted him to say so.

**5 p.m.**

Your Honour, some newspaper complimented the hon. Minister this morning and referred to the same interpretation that I understood the Minister to mean. It means that a P.N.C. activist who gives support to the party could be regarded also as rendering service to the State. As I have



said, there is no yardstick as to who should receive this pension. Previously where a pension is granted to Members or to people of the community, the class is defined, or the person has to be employed in certain types of employment, and one wonders why the Government drafted this Bill in this wide manner.

One has to be suspicious, knowing how the Government operates; it intends to misuse the provision under this Bill. This would open the flood gate to corruption, nepotism, and all manner of ills that have become part of the society because of the P.N.C. Unlike other persons who may receive pensions, those persons are not required to contribute part of their salary or service so that in later years they would be receiving a benefit. They are required to make a financial contribution of salary or wages. Even Members of Parliament, since they are mentioned in the Bill, are required to pay 6 per cent of their salary as contribution to the pension which they will eventually receive.

Here, the person can be entitled to receive pension without having to contribute anything which in my view would also be discrimination when compared with civil servants who are required to contribute part of their wages and salaries for the pension they will receive in later years. But that is not all. They would be entitled to receive a pension although no period is stated for which the service would have to be rendered, or has been rendered, so if the Government feels, after a week or two weeks or even one day, that that person has rendered some service, regardless how short that service is, that person could be granted a State pension, and under clause 4 subclause (2), that person could receive a pension as high as the pension received by an hon. Member who has served in Parliament for a period exceeding twelve years.

Since this Bill is tied up, so to speak, with Members of Parliament, one should consider the Act dealing with Members of Parliament to see how they receive their pension. Each Member has to contribute 6 per cent of his salary for the pension that he would receive. The pension that a Member receives is determined also by the length of service.

The first category is that a person who served not less than six years or for two terms would receive one-third of his higher salary for any one year. This would relate to ordinary

Members because the pension referred to in this Act is tied up with the ordinary Members of the House excluding Ministers. It is tied up with a salary of \$3,000 per year. The Member who has served between six to nine years would receive one-third of his salary as a pension, which is \$1,000. If he served between nine to twelve years, he would receive half, \$1,500. If he served beyond twelve years, it would be two-thirds, \$2,000.

The service of an ordinary Member and the pension he will receive would be determined by the years of service that he has had in Parliament and the amount he will receive would be so determined, but when one looks at the Bill, a person who will receive a State pension, his benefit can be far in excess of that of an ordinary Member who has served even up to nine years or between six to nine or up to twelve years. Up to eleven years, an ordinary Member could only receive \$1,500 whereas, under this Bill, even if the Government considers that he gave one day's service to the State any person could receive \$1,000 in excess of a person who has served in Parliament beyond eleven years. A Member of Parliament is required to contribute 6 per cent of his salary yearly.

First of all, the Government should set out the category of persons who, they intend, should benefit under these provisions, and it should be tied up, as in the case of Members of Parliament, with the length of service and how much money they should receive. Surely, there should be no discrimination. If a person has rendered yeoman service to the State, some benefit should be given to him, but at the same time there should be no discrimination in favour of that person as compared with other members of the community who have rendered the same service or may have rendered better service.

With the other provisions of the Bill, I have no quarrel as to how the pension should be paid to persons who are entitled, to their widows or their children, the details of the payment of the pension, but what we are concerned about are the fundamentals, what yardstick the Government would use to guide it in deciding who would be entitled to receive the pension. The

clause as drafted gives the Minister very wide powers. The Government could say, if it wants a person to receive a pension, that that person has rendered service to the state.

Secondly, I feel that in view of the fact that these persons would not have to contribute for the pension that they eventually would receive, that pension should not be greater than that of a person who would be required to contribute for the pension he will receive. Your Honour, my learned and hon. Friend the Attorney-General said that it would not be greater, but the example I have given shows that a person could receive a greater

pension than Members who are in the House because if a person served six to nine years, he could receive only \$1,000, whereas under this Bill, a person could be entitled to receive pension up to \$2,000.

5.10 p.m

[**The Attorney General**]: "To a man who may have given 30 years of service".

He may not have given any service at all

We think that there is nothing wrong in tying it up as it is tied up in the Act dealing with members of Parliament. I can see no objection that a Member of Parliament could give years of service beyond twelve, but would only receive two-thirds of his salary. In my view, the same thing should apply with respect to other persons in the community when the Government wishes to award pensions to them.

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

**Mr. M.F. Singh**: One would normally not have any objection to this type of legislation, but what is important is the spirit, the manner, in which this piece of legislation is proposed and the way in which it would be administered.

No one can gainsay the fact that there are genuine cases of individuals who have given long and sterling service to the state. All of us would agree that these persons deserve a pension;

they deserve consideration by the State so that they may not languish in misery or poverty in some small dark hole after giving sterling service for a long time to the country.

We agree that there should be legislation to deal with these cases, but, in view of the past history of the P.N .C. Government, one is led to expect that this legislation, when enacted, would be abused and would, in fact, be used to benefit supporters of the Government, in particular, supporters of the People's National Congress. Pensions would be given for partisan reasons and not in the true spirit of the legislation.

This type of action has been taken before by the P.N .C. Government and it is because of past history that we are so very worried. We are concerned at the wide ambit of the legislation and that is why I support my hon .and learned Friend when he advocates that restrictions should be put on this legislation.

The hon. Member, for instance, has made a valid point. I do not want to go over all his arguments. He said that a person may give one or two years of service and may get as large a pension as a legislator who has served in this House very honestly and with devotion for twelve years. This is possible because there are no restrictions in this piece of legislation. If we have put restriction on pension to members of Parliament, why can we not put restriction to confine the application of this legislation, so that we may all be certain that it will not be abused?

Without repeating the arguments of my hon .and learned Friend I want to support his point that restrictions, as outlined by him, should be imposed in this piece of legislation.

**Mr. Speaker:** The hon. Member, Mr. Ram Karran.

**Mr. Ram Karran:** Everyone must recognise and support the contention of the hon. Minister that in each society there will be people who will qualify for awards and/or pensions.

As we glance through our Hansards of yesteryear, we see the way in which this used to be done in the past. Individual Bills were passed and were very few in numbers because there were few people in the colonial period who were regarded by the colonial authorities as people

who would qualify. There is on record the case of Mr. H.N Critchlow and the hon. Minister himself has referred to it.

I support my colleagues who have spoken and who have expressed fear because of the Government's actions and activities since it came to office. We shudder to think of the possibilities that lie ahead, with respect to persons who have made contributions and persons who have not made contributions, when the Government is armed with legislation of this kind.

The hon. Minister tells us that a negative Motion in this House will nullify the Government's award of a pension. I wish to remind the hon. Minister that notice was given of a Motion when a similar device was brought by the Government but the Motion never saw the light of day. Money was passed; money was spent, and even though protests were made, the matter was never debated.

I do not wish to go into the question of Motions and Questions tabled by the Opposition not being taken on this Wednesday, the last sitting day of the year. In fact, the year began with a Wednesday and Government ' business, not the business of the Opposition, was taken, Today, which I hope is our final sitting day, we are again dealing with Government's business and not the business of the Opposition.

I do not want to go into that aspect of it. Again I wish to emphasise that a motion requiring a debate on an award made to the hon. Prime Minister for the purchase of cutlery and things of that kind never saw the light of day in this Chamber. We never debated it, but the Prime Minister obtained the money to buy spoons and table cloth. There was also the case of \$1,200 paid to the Primer Minister every month for his domestic staff.

The Bill that is presented here has no safeguard except that the negative Motion will be brought here, as my friend has said. It will be brought here; we will debate it and the Government by its built-in majority will seal it. The pension will be paid to their friends.

As I said at the outset in support of the hon. Minister, there are many persons who have contributed and will contribute to the country, and we do not wish to put a brake on the

Government in so far as national awards and state pensions are concerned, but we say bring them each time to the House. The House is not so busy that it cannot deal with one or two pension Bills each year.

I want to convince the hon. Minister that this power should not be placed in the hands of the President who will naturally act on the advice given to him by some Minister or the other. The power should be retained in this Chamber; it should be initiated in this Chamber so that the pulse of the nation could be felt and, if an award is going to be made to an outstanding Guyanese, we would all feel proud and not be so ashamed as to sit quietly by and say, "Yes".

I want to call the names of a few people who, in my view and in the view of Members on both sides of the House, have made contributions to this country. Let us take the case of Cleveland Hamilton. He is no supporter or member of the P.P.P. I believe that he made a mistake in disclosing a little too early that the almost immortal Ode to the Republic was done by him, as a result of which there is a complete black-out of that song on the radio station including G.B.S. The Government will not use the song just because it came from Cleveland Hamilton.

**5.20 p.m.**

He entered the contest, as you know sir, under his mother's name. That is how he won. The man has merit and ability. He could not have won had he entered as Cleweland Hamilton. Having won it he exposed that he was the author of it. [**Mr. D. Singh:** "And you are not ashamed to come here and say that"] I am not ashamed to stand here and speak the truth! The hon. Member, sir, is an example of the Government's policy in so far that a Motion of Censure was moved against him for fiddling with the votes. And he is sitting here and molesting decent hon. Members! [*Laughter*] The Government's policy is reflected in so many turncoat sitting over there and they come and talk about administering the law. [*Interruption*]

**Mr. Speaker:** Order. Hon. Member, please proceed.

**Mr. Ram Karran:** That is the policy of this Government- to persecute people. Take another case where a perfect drunk being awarded "S.C."

**Mr. Speaker** Hon.Member, please desist from that type of ramification.

**Mr. Ram Karran:** I am not calling names. I challenge anyone to deny the fact --

**Mr. Speaker:** Will you please confine yourself to the debate.

**Mr. Ram Karran:** I want to satisfy Your Honour and the Government that the Government has got to be aboveboard. If the Government had been performing properly and decently and had been allowing everyone to get a fair chance then we would unhesitatingly give it the power it seeks today.

The hon. Minister of Finance said the other day that we have the right to dissent. Yes. We are very grateful for this right to dissent academically. But when people dissent they get bullets down their throats as in the case of Dr. Joshua Ramsammy. And what has happened? Do you mean to tell me, sir, that the whole Guyana Police Force has not been able to trace that vehicle? I made the point in this House that the number of the vehicle was provided. There is complete blackout and secrecy at the Licence Revenue Office for people to know whose vehicle it is. That atmosphere in which we live can we truthfully and sincerely say, "Yes, hon. Minister, take this power and award pensions to people who are deserving?" Are you sure that the people who are deserving will get the awards? [*Laughter*]

I strongly ask the hon. Minister on this last Wednesday of the Sittings for this year that we put aside this legislation.

**Mr. Speaker:** You have excelled in your arguments this afternoon.

**Mr. Ram Karran:** I am sorry if I offended. I wish to ask the hon. Minister to set aside this legislation, and let us leave this Chamber today with a feeling that the Government will bring cases to the Chamber that are worthy and we on our own volition will support the Government as we have never failed to do when the Government attempts to do something desirable.

The hon. Minister tells us of cases where people perhaps in their old age will become impecunious. Well except for outstanding people they can benefit under existing legislation— the Social Assistance Department and so on for such time until the Government is in a position to come before the House. I did not want to say we are opposed to the whole principle of the Bill.

But knowing this Government we have taken the precaution to offer an Amendment. But if the Government persists, as it so often does, and refuses to take any advice from the Opposition to tender an Amendment that in the event of His Excellency the President nominating someone for a pension that it should have the unanimous support of the House and I am sure that it will go down with better graces to the recipients, to the Government, to the Opposition and indeed to the People of the Nation.

*[Applause]*

**Dr. Jagan:** Sir, there can be no doubt about it that there will be many cases in any country of people who should be honoured, who are respected by the country as a whole. But we will be hiding our heads in the sand if we fail to recognise that Guyana is not only a seriously, gravely divided society but, as one of the heads of our University said the other day, "a highly political country."

Sir, because of this we cannot arrive at bi-partisan-ship even on such questions. At least the Government does not make any attempt even on such question as honouring people who deserve to be honoured. In view of this, we can cite many cases. In view of this one cannot give a blank cheque to the Government to use willy-nilly as it likes. One has to go by experience and the experience in this country has been that over the past seven years this Government has moved stealthily, and one would even say corruptly, against the national interest. Major issues: I recall the issue of the signing of an agreement with Reynolds Metals Company which was not disclosed to this House. It is a matter which affects the nation, the people in this Country. It is a question of public morality. Who is going to judge who deserves? On what yardstick? On what basis is it going to be? Is it going to be a P.N.C. card? Or loyalty to the Peoples National Congress, service to the P.N.C.? Or is it to the Nation? What do we mean by service to the Nation?



We showed that if the Government was doing something that is in the public interest we will support it. This was definitely shown on the occasion when the Government decided that it will nationalise the Demerara Bauxite Company. We gave this Government in this House the support to do this. Had it come with the Reynolds Bill which it signed surreptitiously it would not have the support here. This just shows the standards of morality that we are talking about.

**5.30 p.m.**

Had they come with the Reynolds Bill, which they signed surreptitiously, they would not have got the support here. That shows standards of morality that we are talking about. We have seen other cases.

My colleague has already referred to the way the Government feels, but this feeling is reflected in its behaviour that the Government is the P.N.C. There is no distinction between Government formed by the P.N.C. to govern for the nation and the P.N.C. I raised the question with the Minister of State about one member of the London office sending out circulars using Government stationery, using Government time for P.N.C. work. This is what we are quarrelling about.

When we agreed with the Prime Minister that the law should be changed to permit the nationalisation, certain commitments were made publicly by the Prime Minister in this House. These are being dishonoured. They are not being implemented. Machinery was to be set up to establish a basic thing in the sugar industry. A basic point - democracy. Now we hear a new route is going to be sought: labour code instead of machinery. How can one have confidence?

When I spoke to the Prime Minister, we were told that on such questions as the Public Service Commission, that the Opposition will be represented so that there will not be all these charges that people are getting jobs by kisses and favours, by partisanship, and loyalty. The Prime Minister agreed with me that one individual named Vernon Bhairam would be appointed for one month only on the understanding that this consensus will be arrived at so that these national bodies, where the executive is not supposed to interfere, will be run in the interest of the nation and in the interest of the P.N.C. The Prime Minister agreed with me. Lo

and behold, it was changed to one year, or maybe two years. I gave a name. There are several names. It seems that the distinguished Maha Sabha, before a certain date was *persona non grata*, after a certain date has become *persona grata* when the wholestate machinery is used to interfere in elections .

How can the public have respect for the Government and give the Government *carte blanche* to be able to use the exchequer's money as it likes? We were talking about payment to captains. The hon. Minister of Finance and his colleague, the hon. Deputy Prime Minister and Minister of Agriculture, more or less made the impression that we did not want to pay captains. By all means they must be paid . What we are opposed to is the method of electing them by fraud and using them to be loyal to the Government instead of being loyal to the people with whom they live.

In Moruka, the P.N.C. cannot win the elections for the seats on the Amerindian Village Council; the P.P.P. won five out of nine seats, but on the election day for the captains , which was announced overnight, more people voted than those who voted for all the village councillors or in the elections in 1968. Where did they come from overnight? They are using the public money to try to hold up this machine, to build up a political machine , which is not going to be held by those methods. We see it in community organisers. We see it in public works. They have them all over the country co-ordinators. We see them checking scales in sugar estates. Neither the M.P.C.A. nor the Government union, which it set up with a lot of vagabonds, thieves, can win in any free and fair elections at that level.

The union that wins the elections is allowed one weigher and the Government appoints two; this is how democracy operates in Guyana- paid out of the public purse.

**Mr. Speaker:** Today is not Opposition day but the Opposition is having a field day.

**Dr. Jagan:** This is related to the whole set-up. We are charging that the Government is using the executive arm of the Government to take the public money and use it to build up P.N.C. machinery. We see it in other places. Proxy voting at elections. Pressures of this kind. If

this country is to go ahead, the Government must appreciate the fact and not only say the P.P.P. is talking about what is happening in the country. All kinds of people today are concerned. The Archbishop of Guyana before was talking about corruption.*[Interruption]*

**5.40 p.m.**

More and more people are becoming concerned. The Ministers can live in their little cells and think that everything is all right, but the fact of the matter is that you cannot build a society like this no matter how much you make appeals. The Churches have been appealing to people for generations. They say: “Behave well”, “Thou shall not steal”, “Work hard”.

My hon. Friend sent me a book. I was just reading it. I see the Archbishop Pantin here. They do not go to functions now. They boycott the Governor – General’s functions. This is an indication of the times. Even people like Archbishops are forced by the situation to take a different position

The fact of the matter is that this country today is a sick society. The Minister will know this and his colleague, the Minister of Home Affairs, will know it. If the gates were open outside of Guyana today, if there were no Immigration Act in the United Kingdom and if all the restrictions were not placed on people, you would have to take all the paper from the Ministry of Information, all the supplies available, and print passports only, because people are fed up.

If you are interested in your country, please stop this. You cannot hope to build a just, moral and egalitarian society. Even Archie Codrington talks about this. You cannot hope only to talk and to practise differently. You cannot have corruption at the top and hope to build a proper society at the bottom. This law is going to open the flood gates to further corruption of the society with taxpayers’ money being used to bribe and corrupt people.

We see where Amerindians, who used to be captains, who used to work with their people, are now, because of money, because they are looking to this salary ... We are not opposed to paying them, but let them be elected fairly and squarely. In this case there will be no election, not even a rigged election. As somebody said, the only small man who will become a real man is the

President in Guyana House. He has to agree. There is no yardstick here. He cannot say, "No." Many times I have written to him about Bairam and other people. *[Interruption]*

I told the Governor-General on one occasion, "While it is true that you do not have the constitutional power, yet sometimes you can do as the President of India once did: threaten to resign and then the thing, at least, will start to work."

If all small men have to become big men by looking to the Government for salaries and positions and honours, then we are really in a hopeless mess. This country is facing a dismal future. You are in the seat of power. You are dealing the cards. You can put up aces all over the place, or you can put up jokers all over the place. It is for you to decide, but so far as we are concerned, the Government has not shown by example that it deserves this kind of power at this time, therefore, we cannot agree to this bit of legislation.

We are not opposed to giving pensions to deserving cases. Let them be treated in the same old way as they were treated in the past, that is, let special measures be brought to this House. As my colleague said, there has been no occasion, or very rare occasions, if the cases deserved, that the Opposition has withheld support. I suggest that in the circumstances we follow this route until such time as the Government demonstrates that on certain questions there should be a bi-partisan approach to national life in Guyana. When that is established, they can be assured that the Opposition will grant these powers. As one of my colleagues said the other day, we saw where an obsequious man was honoured and that kind of thing is not desirable in the present circumstances.

**Mr. Speaker:** The hon Minister of Finance.

**Mr. Hoyte:** Mr. Speaker, I should begin by deploring the disrespect shown for the Head of State by no less a person than the hon. Leader of the Opposition. It is all well and good to talk about values, morality and things like that. If we do not show a proper respect for the Head of State well then, I have no doubt that we will continue to have a society in which the proper

values are not established. I think that one of the important things we have to learn in our society is respect for functional authority.

**Dr. Jagan:** I would be glad, sir, if you could correct the hon. Minister because I did not speak disrespectfully of the Head of State. I did not and I think it will be creating a wrong impression

**Mr. Speaker:** That is his understanding of it.

**Mr. Hoyte:** I am quite certain that the only conclusion that one could draw from remarks of levity directed to the Head of State was that this was something for ridicule, the office and the man. If the hon. Leader of the Opposition says that he meant no disrespect, I accept unreservedly what he says, but we can only go by the impression, unfortunate though it has been, created upon us by his words and action.

As I listened to the hon. Leader of the Opposition, I was reminded of the story of the Pharisee who was praying and who thanked the Lord that he was not like other men.

I do not wish to follow the hon. Leader of the Opposition into an excursion into matters not related to this Bill. From time to time the Members of the Opposition complain that Members on the Government Benches do not take them seriously, but it is difficult to do so when the contributions made bear little or no relation to the matters on the Order Paper.

The one point I should like to touch upon, before replying to the contributions from other members, is the point the hon. Leader of the Opposition made about the support for the Government in relation to the nationalisation of bauxite. It is true that the P.P.P. supported the Government; it is true that there were certain proposals which arose out of negotiations leading up to the unanimous decision - I leave out the United Force for these purposes - taken in this honourable House.

Implicit in all this was that the parties would pursue a bipartisan policy with respect to the nationalised bauxite company yet, immediately after the nationalisation, we had the sad and anti-

national spectacle of the Opposition trying to create strife and dissension at Linden.  
*[Interruption]*

**Mr. Speaker:** Order, please!

**Mr. Hoyte:** As I was saying, the Government cannot take them seriously if they do not take themselves seriously. I think that their failure to observe that commitment arose out of certain - should I use the patented phrase of the hon. Leader of the Opposition? - dialectics. They said that the dialectics of the situation, if I may again use the phrase which is exclusive to the hon. Leader of the Opposition in the language of this country, showed that the support for the P.N.C. was dwindling and the party was falling apart so that it was an opportunity for them to step into the breach and win political kudos. That apart, let us get on with this Bill which we are debating here

**5.50 p.m.**

The contributions by hon. Members, I think, were really unworthy of this House and of them. As I understand the substance of what was said it is this: that the Bill was all right in principle, but that the Peoples National Congress Government was going to misuse powers given in this Bill. But, sir, is that facing political realities? We have got the majority in this House and we can come everyday and introduce a Pensions Bill to give every Tom, Dick and Harry a pension.

What is the difference between that and this procedure? What we have done is to formalise the procedures and the Bill makes specific provision for all the details: the pension and the conditions to be laid in this hon. House publicly and to be the subject of a negative resolution if hon. Members are of the view that the person whose name is proposed for a pension is unworthy.

It is not a secret matter. We could have deleted that clause. We could have said the Minister would award the pension. Full stop. But it is because this Government has respect for this House and regard for hon. Members of the Opposition, that it has specifically introduced this

provision which requires the Government to bring its proposals before this House so that hon. Members may know what is happening and be in a position to voice their objections inside this House and outside this House as they so frequently do. The hon. Member Mr. Derek Jagan asked that we should set out the categories of persons and the service which would qualify for pension.

Now, sir, that is not really possible if we stop to reflect for a moment, the categories of public service are never closed. How are you going to say here and now what particular type of public service you may want to designate in the future. As I said a man may be an outstanding cricketer or footballer. A man may bring great fame to this country by literature or music. Today we have got scores of young people who are painting and who are building for themselves a reputation not only in Guyana, but in the Caribbean and indeed in the world. One cannot say sportsmen, politicians, trade unionists. You can attempt it but you will never be able to encompass all the types of services, all the types of contribution which people are capable of making to the State.

Both the hon. Member Mr. Jagan and the hon. Member Mr. Feilden Singh sought to draw comparison between the kind of person who may qualify for pension under this bit of legislation and Members of this hon. House. My own view is that the comparison was most unfortunate. We in this House qualify and will qualify for a pension not because of the value of the contribution we have made to the State. We have given ourselves by law right to qualify for a pension, but it is not based on quality of service; it is based merely on the fact that we sit here and we are the law makers and we have put ourselves on par with civil servants. The types of people we are talking about are people who will make a real contribution, people who when they are making that contribution are not looking for Government support and who probably will not be getting it. Very often, too it is not until many years after that we come to recognize and appreciate the quality of service which such people have made to the State.

In the late 1940's when the hon. Leader of the Opposition began his political career, the powers that be then considered him a nuisance. Nobody considered then that he was a tremendous force in the political life of this country. But we recognize it now, so many years after, and twenty years hence, fifty years hence, when historians come to write, nobody can write

29.12.71

National Assembly

5.50 – 6 p.m.

the history of these times without giving prominence to him and his contribution. Nobody is concerned with the details.

Policies may differ, points of view may differ, but the quality of service to the State is something which cannot be gainsaid. I hope that hon. Members will appreciate the spirit in which this Bill has been brought and will wait until, as they fear, the Government misuses the power before offering the kind of criticism which has been offered here. I think today this debate is concerned with the principle of the Bill, whether the Government is doing the right thing in setting up this kind of legislation. When the Government brings forward specific cases for the award of pensions I think that is the time for criticisms to be made harshly if hon. Members of the Opposition believe that the Government has merely used this legislation for partisan and unworthy purposes.

*Bill read a Second time.*

*Assembly in Committee.*

*Clauses 1 to 3 agreed to and ordered to stand part of the Bill*

6 p.m.

*Clause 4*

**Mr. Ram Karran:** I wish to move the Amendment standing in my name namely, that in clause 4 subclause 1, the fourth line, the first word, "negative" be deleted and the word "unanimous" be substituted, having regard to the contribution made by the hon. Minister of Finance who in his closing remarks said that when the main sponsor is brought before the House then the Opposition has an opportunity if the recommendation is a frivolous one.

I particularly pointed out a case in which a Motion was offered in this Chamber and the Government offered nothing. It did not bring the matter to the House and even though we have repeatedly drawn that to the attention of the Chair, we cannot get it over. The



deed has been done and we fear the manner in which this Chamber is run a similar thing might take place

What is more, the hon. Minister did not direct his attention to the question of *ad hoc* Bills being brought before the House as has been done in the past and is being done in so many other countries. Not all Parliaments have an enabling Bill and Orders are brought up. In some Parliaments where they are very busy, they still have initiating Bills on matters of this kind. It gives the person a higher status. A Bill has to be read three times with the "Oh yes" and the Mace. It is a lot of ceremony.

When an Order -in- Council comes here, it does not appear on the Order Paper, it is not given publicity in the press. That is why we say bring it in a Bill. Having regard to the hon. Minister's refusal to accept or even to deal with that aspect, we give an assurance we are not going to withdraw our support from the Government in so far as public awards to Guyanese of eminence are concerned, whether they are cricketers or whether they are song writer. As a matter of fact, we are more likely not to discriminate. The difference might be that we might think so many other people qualify but the Government might, having regard to its limitations, wish to withdraw support from those people. If the Minister brings a name here, we give our word we are going to give him the necessary support once, in our opinion, this person has really contributed to the cultural, social, educational, sporting, or whatever aspect of life he might be thinking of.

I strongly urge the Minister not to ask us to wait until the Government slips up, as it has slipped up in so many fields. The hon. Minister did not attempt to reply to them. He treats them in a cavalier fashion. If the Government is hesitant about bringing the name of a person forward, it will need to negotiate, talk with the hon. Leader of the Opposition. "What do you think about Cleveland Hamilton, do you think he can get an award for his contribution?" And the hon. Leader of the Opposition would be in a position to talk to the Government and say, "This person stands out and he should be rewarded." In that way we can get democracy working at this level at least, if the Government cannot get the Opposition to work with it policywise.

We want to do honour to all prominent Guyanese. They are not going to be rich people. Some of them will be very humble and we want a unanimous vote in so far as these people are concerned. Not only for the paltry sum the Parliament will be giving but for the honour of having achieved some thing, and I strongly urge the hon. Minister to accept the Amendment so that at this level we can have unanimity.

**Dr. Jagan:** I wish to support my colleague on this Amendment and I think this is one area where, as the hon. Minister of Finance said a moment ago, we can have bipartisanship. He used the word a little while ago in relation to bauxite. That is a far more controversial field than what we are now talking about. We are talking about honouring distinguished Guyanese. This is not a question of politics. They recommend themselves. The Government talks about bauxite. Nationalisation was the only area on which we agreed, that is, to permit Guyanese to take over the resources. The takeover is one thing.

My friend knows from his little readings that there is such a thing as anti-imperialist socialist nationalisation and state capitalism. We never agreed with the Prime Minister or anybody on the Government side that we will have a bipartisanship so far as everything in the bauxite industry was concerned. That is importing into the subject far more than was ever dreamt of at the time of those discussions.

To come back to his concept of bipartisanship, here is the area where it will work and if we have the principle of unanimity in the great Security Council of the United Nations, then we should try to achieve that principle on this one noncontroversial, non-political matter of awards to meritorious Guyanese. I hope the Government will accept this Amendment.

**The Attorney-General and Minister of State (Mr. Ramphal):** On a point of clarification, is the Amendment the substitution of the word, "unanimous", for the word, "negative?"

**The Chairman:** Yes.

**Mr. Hoyte:** I wish to remind hon. Members of the Opposition that the alleged happening in respect of negative Motion some time ago cannot recur in this honourable House. I do not

know what the particular Motion was all about because, obviously it was before my time, but I would draw the attention of hon. Members to Standing Order 69A, which was passed in this honourable House and which reads as follows:

“(1) The period prescribed for the purposes -of section 17(1)of the Interpretation and General Clauses Act, 1970 (whichrelates to subsidiary legislation subject to negative resolution) shall be 40 days from the date on which the subsidiary legislation is laid before the National Assembly.

(2) Where notice of a motion that any subsidiary legislation subject to negative resolution shall be annulled is given within 21 days of the date on which the subsidiary legislation is laid before the Assembly, that motion shall be debated as soon aspracticable and in any event before the expiration of the period prescribed in paragraph (1) hereof.”

In other words, we passed here an amendment to the Standing Orders to prevent a recurrence of the situation which hon .Members alleged occurred, so there is absolutely no possibility of a negative resolution not being debated in this House.

We have the additional legal problem in accepting the phrase which the hon .Member Mr.Ram Karran seeks to introduce into clause 4, in that, in our Interpretation and General Clauses Act we have there set outterms which have precise meanings, both in the law and in the Constitution, which make provision for affirmative and negative resolutions.If we were to insert here the phrase which the hon .Member wishes to insert we would be, in fact, creating something in the nature of a legal chimera. It wouldbe a phrase unknown to law; it would have no relation back to the Interpretation and General Clauses Act; it would have no relation back to our Constitution and, in fact, we would be allowing ourselves to pass legislation containing a phrase which has no meaning in law.

For those reasons, I would urge the hon. Member to consider the possibility of not proceeding because, in any case, the premise upon which he based his amendment is not a sound one as he had forgotten the amendmentto the Standing Orders and, in any case, it would be giving effect to a phrase which will have no meaning in law.

**Mr. Ram Karran:** I did not hear the hon .Minister disclose any other view point of the Government save the question of difficulty in the terms.If the Government wishes to accept the

amendment.in the spirit of the amendment then, naturally, it is not beyond the ability of the eminent lawyers advising the Minister and the Attorney- General to put our ideas in proper legal phraseology. I am sure it is possible. [**Mr. Hoyte:** “Amend the Constitution”] I do not think there is need to go to the Constitution; you merely amend the Act.

I pointed out that a Motion that was brought before this House was not debated in defiance of the Standing Orders.

**The Chairman:** Hon.Member, will you kindly confine yourself to the remarks of the Minister of Finance, if you are replying to him?

**Mr. Ram Karran:** I am merely pointing out that that is not the substantial reason why the amendment has been moved. As I pointed out in moving the amendment, which has been ably supported by my colleague and friend, --

**The Chairman:** I understand all that. Please confine your reply to the Minister's point.

**Mr. Ram Karran:** That is what I am trying to do.

**The Chairman:**You are not trying.

**Mr. Ram Karran:** The main reason for the amendment is to have unanimity in the House in so far as these awards are concerned.

**The Chairman:**We understand that.

**Mr. Wilson:** I want some explanation. On the basis of the amendment to the Standing Order, which the hon .Minister read, it will not be possible for a negative resolution not to be debated. I am not very well versed in these Standing Orders, but I should like to be informed on this point. If the Motion does not come out, what will be the effect with regard to the matter that is to be negatived? Will it become null and void, or will it pass? Suppose the House, for some reason, does not meet and there is no chance to debate this negative Motion within the 40 days' limit, what effect will it have on the Order?

**The Chairman:** The Standing Order speaks for itself, if you had taken the opportunity to read what it states.

**Mr. Wilson:** I have not got my spectacles here.

**The Chairman:** That is not my fault.

**Mr. Hoyte:** Mr Chairman, there is no question now of such a Motion not coming. It must, under the Standing Orders. Before this amendment in March this year, there was no provision, so obviously there was an opportunity to get by with what the hon. Member referred to, because you could not have pointed to anything in the Standing Order which said you must debate it. Now, to rectify this situation, this Motion was debated in this honourable House and passed unanimously.

This is like asking what happens if five days are not allotted for the general debate on the Budget or seven days are not allotted for the consideration of the Estimate. We have grown to accept the Standing Orders as our guide. We are getting into field of speculation, and useless speculation, in asking question like that.

**Dr. Jagan:** I wonder whether I can raise a point. The Minister rightly, support of his argument, read Standing Order 69A, but I should like to say from my conversation with you, sir, on some of these same matters dealing with Motions and Questions, that there are provisions in our Standing Order for Questions to be answered. However, from my conversation with you, and from the ruling I understand, you have given, you cannot put the matters on the Order Paper until the Government agrees,

**The Chairman:** I do not put them on the Order Paper.

**Dr. Jagan:** Whoever makes up the Order Paper? We say this is your responsibility. I am saying that the Standing Orders provide for a certain time table, a certain procedure, in dealing with Question.

**The Chairman:** The Standing Order provides that Motions that are submitted and the Questions that are submitted, must be placed in the Motion Book and on the Notice Paper, but it

certainly does not go on to say they must be debated. That is the point I have been making with you all the time. We comply with the Standing Orders.

**Dr. Jagan:** That is not the point I was making. I was making the point that the rules provide that as soon as they are submitted they go on the Notice Paper, but to get on the Order Paper, the procedure has been –

**The Chairman:** The rules do not provide for that. They provide for putting them on the Notice Paper

**Dr. Jagan:** I am making a distinction between the Order Paper and the Notice Paper.

**The Chairman:** I am saying that the Standing Orders do not provide putting it on the Order paper, so this does not seem realistic. Section 69A (2) provides for debate.

**The Attorney General and Minister of State:** Mr. Chairman ... what the hon. Member was pointing out was that the new rule which has been ... is a complement to the ... But our new interpretation in the legislation dealing with affirmative and negative resolutions introduce a time factor into the Standing Order which takes cognisance of all other standing provisions dealing with Questions and Motions which says that once a resolution is seeking to annul a subsidiary legislation that resolution must be debated. It is an area of ... this type of situation as positive and mandatory and the rules relating to Questions and Motions.

**Mr. M.F. Singh:** Mr. Chairman, I wonder whether I can invite the Government to accept an Amendment.

**The Chairman:** Hon Member Mr. Singh lest us dispose of this Amendment first.

*Amendment-*

That the word “unanimous” be substituted for the word “negative” in subsection (1)

*Put*

*Assembly divided Ayes 16, Noes 22 as follows:*

**Ayes**

Mr. M.F. Singh  
 Mr. Teekah  
 Mr. Durant  
 Mr. Balchand Persaud  
 Mr. Branco  
 Mr. R. Ally  
 Mr. Reepu Daman Persaud  
 Mr. M. Y. Ally  
 Mr. Lall  
 Mr. Hamid  
 Mr. Wilson  
 Mr. D. Jagan  
 Dr. Ramsahoye  
 Mr. Chandisingh  
 Mr. Ram Karran  
 Dr. Jagan - 16

**Noes**

Mr. Zaheerudeen  
 Mr. Van Sluytman  
 Mr. Saffee  
 Mr. Jordan  
 Mr. Fowler  
 Mr. Corrica  
 Mr. Chan-A-Sue  
 Mr. Budhoo  
 Mr. Bissember  
 Mr. Bancroft  
 Miss Ackman  
 Mr. Aaron  
 Mr. Salim  
 Mr. Duncan  
 Mr. Joaquin  
 Mr. Haynes  
 Mr. Mingo  
 Mr. D.A. Singh  
 Mr. Ramsaroop  
 Mr. Carrington  
 Mr. Hoyte  
 Mr. Kasim - 22

*Amendment negative.*

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**NB: PAGES OF THIS TRANSCRIPT ARE MISSING.**