

LEGISLATIVE COUNCIL**FRIDAY, 7th MARCH, 1947.**

The Council met at 2 p.m., His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G., President, in the Chair.

PRESENT :

The President. His Excellency the Officer Administering the Government, Mr. W. L. Heape, C.M.G.

The Hon. the Colonial Secretary, Mr. D. J. Parkinson (acting).

The Hon. the Attorney-General, Mr. F. W. Holder, K.C.

The Hon. the Colonial Treasurer, Mr. E. F. McDavid, C.B.E.

The Hon. F. J. Seaford, C.B.E. (Georgetown North).

The Hon. H. N. Critchlow (Nominated).

The Hon. J. Gonsalves, O.B.E. (Georgetown South).

The Hon. Peer Bacchus (Western Berbice).

The Hon. C. R. Jacob (North Western District).

The Hon. A. M. Edun (Nominated).

The Hon. V. Roth (Nominated).

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

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

The Hon. G. A. C. Farnum (Nominated).

The Clerk read prayers.

The minutes of the meeting of the Council held on the 6th March, 1947, as printed and circulated, were taken as read and confirmed.

ANNOUNCEMENT**COMPASSIONATE GRATUITY FOR
MR. RAMLAGGAN**

The COLONIAL TREASURER, (Mr. McDavid) communicated the following message :—

MESSAGE No. 14

Honourable Members of the Legislative Council,

I have the honour to invite you to approve of the payment of a compassionate gratuity of \$364 to Mr. Ramlaggan, retired Foreman-Ranger of the Canals Nos. 1 and 2 Drainage Area, who was in the employment of the Canals Polder Authority and the Drainage and Irrigation Board for over 25 years and whose service was terminated at the end of 1945 at the age of 63 years on account of ill-health.

2. The Drainage and Irrigation Board strongly recommend Mr. Ramlaggan for a gratuity, not only on the ground of long and meritorious service, but also because his retirement on account of ill-health has been brought about by exposure in all kinds of weather due to the nature of his duties. In these circumstances the Executive Council advise that his case is deserving of sympathetic consideration and, subject to your approval, recommend payment to him of a compassionate gratuity.

3. Had Mr. Ramlaggan's wages been paid from public funds instead of drainage rates, he would on retirement have been eligible for superannuation in accordance with Legislative Council's Resolution XXV of the 21st of August, 1940, and having regard to this and the special circumstances of his case, the Council is invited to grant him a compassionate gratuity of \$364, the equivalent of one year's pay, which is the maximum gratuity payable in respect of his length of service under the Legislative Council's Resolution mentioned above.

W. L. HEAPE,
Officer Administering
the Government.

GOVERNMENT HOUSE,
British Guiana,
7th March, 1947.

GOVERNMENT NOTICE**COMPASSIONATE GRATUITY TO
MR. RAMLAGGAN**

The COLONIAL TREASURER gave notice of the following motion :—

That, with reference to the Officer Administering the Government's Message No. 14 of the 7th March, 1947, this Council approves of the payment of a compassionate gratuity of \$364 to

Mr. Ramlaggan, retired Foreman Ranger of the Canals Nos. 1 and 2 Drainage and Irrigation Area.

ORDER OF THE DAY

PUBLIC OFFICERS' GUARANTEE FUND (REPEAL) BILL, 1947.

The PRESIDENT : Mr. Colonial Treasurer, are you prepared to resume consideration of the Public Officers' Guarantee Fund (Repeal) Bill ?

The COLONIAL TREASURER : Yes, sir. When this Bill was in Committee of the Council at clause 4 it was decided to appoint a Select Committee to go into the Bill, and yesterday I tabled the report of that Committee on its deliberations. I think, sir, I am in order in making a statement on the report of the Committee at this stage. The point on which the Committee of Council left off was the suggestion by one hon. Member that instead of taking the surplus of this fund into general revenue it should be placed at the credit of a special fund to be used for the purpose of meeting losses by reason of the default of Public Officers. It was also suggested in another quarter that the surplus balance should in some way or other be appropriated for the direct benefit of Civil Servants themselves, and one of the suggestions made was that this money should be used for the purpose of assisting a housing scheme for the benefit of Civil Servants themselves or for granting scholarships and other benefits of that nature.

The Select Committee took into consideration the object of the Bill particularly from the point of view of what has now transpired that this Public Officers' Guarantee Fund is now in a position to carry itself. That is to say, the contributions which were made to it by Public Officers, except for the small deduction of ten per cent. which is made from these contributions, are returnable to the Officers themselves on their retirement. It is obvious that the fidelity of Public Officers can be guaranteed without calling on them for any contribution at all. Consequently the object of the Bill, as has been said in the second reading, is to restore to Public Officers the balance lying at their credit

and to take the money remaining into the public till and to leave public funds to carry any risks that there may be for any future losses. Why I said to put the money in the public till is that the Bill provides that the money should go to revenue. Consequently general revenue should meet the losses.

The Committee has accepted the view that it would be preferable instead of taking the money into revenue to allocate it to a special fund and keep it there for any particular purpose. I may say that the neighbouring Colony of Trinidad has done precisely the same thing and has recently passed an Ordinance *moreso* on the lines the Committee has recommended. The other parts of the report of the Select Committee are consequential amendments to the Bill following on those considerations. With that explanation I ask permission that we move in Committee right away and resume consideration of the clauses of the Bill. It will be necessary that clause 4 be recommitted at the same time.

The PRESIDENT : When we go into Committee, what is the position of these amendments ?

The COLONIAL TREASURER : We had stopped at clause 4. I shall have to ask for the recommittal of the long title and possibly something else preceding clause 4.

The PRESIDENT : Your intention is to pass the other clauses and stop in the Committee stage !

The COLONIAL TREASURER : My intention is to go right through.

The PRESIDENT : Have you the amendments ready ?

The COLONIAL TREASURER : Yes, sir. They are in the report.

Mr. SEAFORD : I am sorry I was not here when the second reading was taken. I am not quite sure what are the funds available, and the second point arising out of that is, if we accept the Committee's recommendation which says

".....shall be placed to the credit of a special fund which shall be re-

tained and used for the purpose of meeting any losses of public funds or property that may arise in future by reason of the default of Public Officers."

Is that expected to be a very large sum? What amount are you going to reserve? What is your liability going to be, and what fund is available?

The PRESIDENT: I think the hon. the Colonial Treasurer can give an answer.

Mr. SEAFORD: He may give some rough idea, whether it is a million or thousands or what.

The COLONIAL TREASURER: The answer to the first enquiry is simple. The balance of the fund available after meeting all claims is \$135,000, which is of course invested, will continue to be invested and to earn interest. As regards the second query, all I can say is that the fidelity of Public Officers has been in a large measure extremely good. We have struck one or two bad patches especially in recent years through people who to some extent were not in the classification or character of Public Officers. The hon. Member would not want me to express what I mean. On the whole the claims against the Public Officers' Guarantee Fund are extremely small. I do not want to suggest that honesty is so intense in the Public Service that there is no dishonesty at all. I feel that the claims against this Fund will not exhaust it for a very long time, and there is good reason to think it will continue for many years and will grow rather than diminish.

Mr. EDUN: I am somewhat astounded to learn that the Fund is only about \$135,000. Knowing that this Fund is such an extensive one I think that the Select Committee did not carefully go into the matter, because there was wisdom in the provision that the Fund should lapse into the Treasury, as those Officers who contributed to the Fund will not receive any benefit but maybe the Officers who are now working for Government and are Civil Servants may do so. For that reason I think it will be equitable for this Fund to lapse into the Treasury. That was the reason why the provision was put there. As a matter of

fact the principle involved is that funds like this one ought to be preserved. For instance, we have the Repatriation Fund which is governed by Statute. That Fund cannot be used for any purpose other than what the Statute calls for. In this case—I will give an instance—this Fund ought to go back into the Treasury in the interest of the Colony as a whole, because I do not find this principle accepted or adopted in any other case. For instance, the Rice Marketing Board—the fund there will be accumulated and used by the Board for purposes which the Board thinks fit. In this case we have \$135,000 which will be preserved for certain purposes without the public or the taxpayers of this Colony receiving any benefit from it. I do not think the Select Committee is wise in this case. If we accept or adopt the Socialistic principle of funds like this being not preserved but should go to augment the Colony's finances, then I think the Select Committee has erred in this instance. I do not think it ought to be preserved, because it will be of no use. As a matter of fact the hon. the Colonial Treasurer said the Fund should be used for scholarships and other purposes. That gives me—

The COLONIAL TREASURER: I did not say that. I said other people suggested that.

Mr. EDUN: That gives me the idea that the fund belongs to the people of the Colony and, therefore, it should revert back to the Treasury in the interest of the taxpayer.

The COLONIAL TREASURER: I do not think we are in order. I move that we go into Committee.

The PRESIDENT: I think it should be explained to the hon. Nominated Member that this Bill is based on the Bills passed in other Colonies—Mauritius, Nigeria—providing that the balance of the Fund should go to the Treasury, as the hon. Member himself said that is what should be done. But when this Bill was introduced the Members of Council who were present were practically unanimous and did not agree with it. They wanted time to consider it because they felt it should be used for some specific purpose

A Select Committee was appointed by me to go into the question. The hon. Nominated Member was not here and so is not aware of the fact that the principle which he is now raising has been already adopted and that as a result of that debate a Select Committee was appointed. I personally have very strong views on it. I have no objection to the Fund being reverted back to the Treasury, but the report of the Select Committee is only carrying out the consensus of opinion expressed during the second reading debate.

The COLONIAL TREASURER: If this Bill is passed as recommended by the Select Committee, the wording of the section says this Fund which is contributed to by Public Officers will go to the Treasury. All that will happen is that the Treasury will put it in a separate fund in Government's books as originally thrown out and the amount will go into revenue. But the majority opinion is rather than put it into the revenue of one year and risk its absorption in the expenditure of that year the Treasury should put it in a special fund. It is still public funds when it gets to the Treasury. The hon. Member is under the misapprehension that it does not go into public funds. It is because the public taxpayer is going to be protected adequately we keep it in a separate fund.

Mr. SEAFORD: The only difference is, it cannot be used on public expenditure; therefore it remains there and grows. For what purpose is it going to grow and be held?

Mr. FARNUM: I was one who felt that this Fund should be earmarked for the benefit of Public Officers. After hearing the debate and finding that the Officers had everything due to them in this Fund, I quite agree that it should be placed into general revenue. But as Members ask that it should be put into a fund so that we can see what is happening to that fund, as the hon. the Colonial Treasurer pointed out it is really Government fund but placed in a separate fund, I would like to congratulate the Select Committee on the very lucid report which they put before the Council and, I think, one advantage of having that reserved and charging, if I may say so, all defalcations that occur from

time to time to that fund is, that the Council and the general taxpayers will see what the defalcations are. At present it goes into general revenue and we do not know what it is.

Mr. JACOB: May I say I, too, endorse the Select Committee's report. I was one who stressed that while the money should revert to the Treasury it should be earmarked and kept separately and further be invested so that the money would not be utilised in any particular year, when there was a deficit. I stressed, too, in the general debate that we should create a Reserve Fund. I take it, this will be a nucleus to the Reserve Fund to be created very shortly. I am a little surprised the hon. Member for Georgetown North (Mr. Seaford) is against the creation of a Reserve Fund.

Mr. SEAFORD: I only asked for information. I expressed no opinion whatever!

Mr. JACOB: This is the beginning of a Reserve Fund to be created. Here is something to go upon. It is wrong and unwise to leave the money there. I think the Select Committee very wisely suggested what should be done. I hope the Bill will be passed.

Question put, and agreed to.

Council resolved itself into Committee to consider clause by clause the Bill intitled —

"An Ordinance to repeal the Public Officers' Guarantee Fund Ordinance, Chapter 202, and authorize refunds to certain contributors."

COUNCIL IN COMMITTEE.

Clause 1—Short Title.

The COLONIAL TREASURER: I move that clause 1 be recommitted and "1946" appearing in the Bill be amended to read "1947."

Question put, and agreed to.

Clause passed as amended.

Clause 4—Balance to be paid into revenue.

The COLONIAL TREASURER: I move, as indicated in the report of the

Select Committee, the deletion of the words "form part of the general revenue of the Colony" in the last line and the substitution of the words "be placed to the credit of a fund to be styled the Public Officers' (Defaults) Reserve Fund hereinafter referred to as the Fund." That is intended to carry out the recommendation of the Committee.

The CHAIRMAN : An important principle is involved in that amendment.

The COLONIAL TREASURER : Yes; and the marginal note is to be altered to read "Establishment of Public Officers' (Defaults) Reserve Fund."

Mr. SEAFORD : I do not think it makes the slightest difference if we start a reserve fund. \$135,000 is not going to be a flea's bite to this Colony. I am surprised that the hon. Member for North Western District (Mr. Jacob) does not realize that we have a very big reserve already. We have a surplus of \$5,000,000 and a reserve of \$2,000,000 which we lent to the Imperial Government. That will at least carry us on for a few months, I hope.

Mr. JACOB : I am a little surprised at the hon. Member calling a surplus balance a reserve.

Mr. SEAFORD : I did not include that as a reserve.

Mr. JACOB : I think. I am right. I have not seen in the Colony's Balance Sheet — perhaps the hon. the Colonial Treasurer may explain—that the Colony has a reserve fund at all. As a matter of fact before the last draft estimate was presented, we had it clear that all the surplus may be utilized, but now it is strange that we have a surplus balance. I would like to know that we have a surplus fund, but so far I know we have a reserve fund.

The COLONIAL TREASURER : I think both hon. Members are out of order. It is just a battle of words between Members and I am going to add to this battle by reminding the hon. Members what really happened. We passed a resolution in this Council to create a reserve by lending H.M. Government \$1,000,000 as a loan free of interest. We then later increased

that by another \$1,000,000. On paper we have this \$2,000,000 as a reserve, although not actually shown as such in the Balance Sheet. I think we are off the point.

The CHAIRMAN : I think so. The point is, if you accept the principle which is now put to Members by the Select Committee's report, you would pass clause 4 as amended in the sheet before you. Members will notice that clause 4 contains in the new proposal certain amendments and additions of sub-clauses (1), (2) and (3). It is clearly set out before you, and that is the question before Members.

Mr. JACOB : We have a clause before us—clause 4—which states this amount of \$135,000 is to be placed to the credit of a fund to be styled "The Public Officers' (Default) Reserve Fund." I think we can stretch this clause to suggest that while this reserve fund is going to be created with that amount the Colony should have a reserve fund too. I do not accept the explanation by the hon. the Colonial Treasurer that we are a little bit out of order.

The CHAIRMAN : If you are not out of order, then I say you are extending the scope of this debate to bring in a larger subject. If you approve of the principle of this Bill, then you have really been going on to a larger subject. We want to pass the Bill.

Mr. JACOB : I hope to do that, and I have my notes here. This reserve fund should not only be created in respect of this amount, but we should consider very clearly the question of creating a Colony Reserve Fund as well. So I am quite in order. This is the point I want to make. We have been in the habit in this Colony too often of trying to confuse the issues. While I am here I will not agree with the Government side to try and make matters confused and out of order. I support this clause and I trust that after this fund is created and the money is invested so that it cannot be frittered away but can be used up to stabilize the finances of the Colony, this Colony will have a reserve fund as most organised businesses have.

Mr. ROTH : I do not agree with the recommendations of the Select Committee and with the amendments moved by the

hon. the Colonial Treasurer. From the debate on the second reading it was quite evident that Government had no intention whatever of using it as a special fund to recoup any defalcations. If my memory serves me correctly, the hon. the Colonial Treasurer said that normally all defalcations would come out of general revenue, but it was not Government's intention to use this Fund for the replacement of any such defalcation. Your Excellency will remember that during the debate on the second reading of this Bill there was more than one suggestion that the surplus should be used for the benefit of Public Officers. Naturally, it cannot benefit all the Public Officers who have subscribed to it because some of them are dead, but it should certainly be the principle that the balance of the Fund should go to the benefit of Public Officers, their dependents or successors, or be placed at the credit of the Widows and Orphans' Fund.

After all, the money was collected from those officers *willy nilly*, and I think that after Government has made provision for meeting defalcations, the right thing to do is to set aside a good deal of the Fund and wherever possible the benefit should go to Public Officers, their dependents or successors, or the balance should be placed at the credit of the Widows and Orphans' Fund, since there are people who are very much in need of such funds. I therefore move an amendment to the effect that the words following the word "into" in the seventh line of clause 4 be deleted and that the words "Widows and Orphans' Fund" be substituted therefor.

The COLONIAL TREASURER: The hon. Member is quite wrong in his assumption. He began by saying that in future charges for defalcations will go against general revenue, but that will only be so provided this Fund goes there also. What the hon. Member is saying is that having accepted the idea that general revenue would meet all claims for default, we should take the Fund and use up the money for the benefit of Public Officers, but if the idea is that the taxpayer is to bear the whole cost of any defalcation then this balance should go to the taxpayer also. That is the only basis on which it can be done.

We cannot give the general taxpayer a liability or risk to meet an expenditure of that nature unless there is some *quid pro quo*. In commercial offices, of course, clerks and other employees take out risk insurance—fidelity insurance—and pay it out of their pockets, and they get nothing back. Public Officers are going to get it free, because there is this sum of money accumulated and the public will undertake that risk. The Public Officer cannot have it both ways. If you do what the hon. Member has suggested, then the whole basis of this Bill would be destroyed. You cannot abandon this Fund and give back to contributors their balances, and also keep up the Fund as well. It would be quite impossible to do that.

Mr. JACOB: As I understand the position, this \$128,000 is not shown in the Colony's books as a surplus—if these books are worth anything. I notice on page 2 of the Committee's report that reference is made to the "general revenue of the Colony"—which is \$5,445,597—and it is significant how the revenue balances. Then I see a note—

The COLONIAL TREASURER: We are wasting time; that has nothing to do with the point before us.

Mr. JACOB: I am on my feet, Your Excellency.

The CHAIRMAN: You must sit down when another Member is speaking.

The COLONIAL TREASURER: We are discussing a particular fund and a particular machinery, and the hon. Member has risen to speak on the financial position of the Colony—something which, I think, is irrelevant.

The CHAIRMAN: I think it is irrelevant, but perhaps the hon. Member may make his point briefly.

Mr. JACOB: I am not going to take more than a minute. I am making a point—I am not going to suffer from any confusion of thought. I am saying that the Colony has no Reserve Fund. The hon. the Colonial Treasurer is merely trying to confuse the issue when he says that my question is out of order.

The CHAIRMAN : No; he is not confusing the issue. The position is that a second amendment has been moved by the Nominated Member, Mr. Roth, with regard to clause 4, and in accordance with proper practice I will now put that second amendment, which is that the words following the word "into" in the seventh line be deleted and that the words "the Widows and Orphans' Fund" be substituted therefor

Amendment moved by Mr. Roth put, and lost.

The CHAIRMAN : We will now pass to the second printed amendment which is before hon. Members. It not only alters clause 4 as printed, but provides for the insertion of two new sub-clauses—4 (2) and 4 (3). Those in favour of the amendment as contained in the report of the Select Committee which is before the Council will say "aye" and those against say "no."

Amendment put, and agreed to.

Clause 4, as amended, passed.

Clause 5—Claims by untraceable officers.

The COLONIAL TREASURER : I beg to move an amendment for the deletion from clause 5 (2) of the words "the general revenue of the Colony," and the substitution therefor of the words "the Fund."

Mr. JACOB : Apart from this Fund, I think, there are other funds. For instance, I think the Postal Agents have some fund. Somebody has asked me to find out—now that the principle has been established that there should be no Guarantee Fund—what will be the position of the Postal Agents. I don't know if I can get the answer now.

The COLONIAL TREASURER : So far as I know, Postal Agents are not Civil Servants or Public Officers, and their position is one outside this Fund. I understand that the Postmaster General found it very difficult to get these Postal Agents guaranteed at all, and he devised a scheme whereby they had to put a certain sum of money in the Post Office Savings Bank. That was, however, a sort of informal, private, departmental arrangement. As I have already stated, I do not believe Postal

Agents are Public Officers and, therefore they do not come within this Fund.

Amendment put, and agreed to.

Clause 5, as amended, passed.

New clause 6—

The COLONIAL TREASURER : I beg to move the insertion of a new clause—6—as indicated in the report. This clause, of course, deals with the procedure in case there is default by any officer affecting the Fund. The loss, on being certified by the Auditor, will be paid from the Fund, but the liability of the officer continues. That is to say, Government can make an order against him or his property as regards liability for a refund.

Mr. EDUN : I do not think this Council ought to agree to the inclusion of this new clause, as well as those to follow. I see in them a twist in the process of administration. Here, Government is guaranteeing beforehand that if any officer is in default funds would be there to cover up that default. That is giving a licence to officers to default, and the whole principle is bad in the extreme. I do not see why this clause should be included in the Bill at all.

The COLONIAL TREASURER : I am quite sure the hon. Member has not read this clause. If he reads the new clause 8 (1) which it is proposed to insert in the Bill, he would see that it says :—

"(1) The liability of an officer in default for the amount certified to be due by him shall continue and may be enforced against him or all or any part of his property notwithstanding any payment made by the Colonial Treasurer from the Fund in respect of the amount due by such officer."

That is to say, if there is a default, the amount is certified and payment is made by the Colonial Treasurer, and the Government would order process against the officer and the amount would be collected from him as far as possible.

Mr. EDUN : That is the very thing I am protesting against. I know what is human nature and I know what is the feeling of a superior officer towards a subordinate officer. The probability is that he will not be asked to pay anything and that

it will be paid out of this Fund. I know of a case where an officer was in default of a certain sum of money but he was not asked to pay and it was paid by the Legislative Council Food Production Committee. I think that is wrong and that it will give a licence to other officers to do likewise. Why should we consider this measure now? If an officer does a wrong thing, let him pay for his mistake. That is the only way to discipline him, otherwise the whole thing will be a farce.

The COLONIAL TREASURER: I am at a loss to understand what the hon. Member is saying. This Bill is designed to take care of dishonesty. The hon. Member refers to an instance and, I think, I know what he is talking about. There are cases where a Public Officer might lose money in the course of his duties, and yet there might not be a default. In such a case, the Executive Council decides whether the officer is really guilty of negligence and whether the loss is something which Public Revenue should bear in the ordinary course. In the case of businesses—Banks particularly—losses occur nearly every day, but those are not defaults. It is something that occurs in the course of business and in such cases Government, like commercial houses, decide whether they should write off the amounts involved.

This Bill deals with cases where an officer is in default in accounting through some dishonesty, and in each case the procedure is that the Auditor would certify the loss and the amount would be claimed against this Fund, but the Bill goes on to say that the liability of the officer continues, and Government has a right to try and recover the money from him in a case of default. In such cases, the first thing that happens is that the officer is "fired", and notwithstanding that he would still be liable for making good the default.

The CHAIRMAN: The hon. Member (Mr. Edun) feels that if this Fund is there dishonesty among officers would spread, but the first thing that would happen is that the officer would be charged.

Mr. EDUN: If the hon. the Colonial Treasurer feels otherwise then let us keep

the clause but, I feel somehow, we are giving licence for dishonesty in this case.

New clause 6 put, and agreed to.

Clause 7—Public Officers' (Default) Fund.

The COLONIAL TREASURER: I now move the insertion of the new clause 7 as contained in the report of the Select Committee. There is a mistake in the marginal note which should really read "Public Officers' (Default) Fund. Account to pay amount so certified."

New clause 7 put, and agreed to.

New clause 8.

The COLONIAL TREASURER: I move that the new clause 8 be inserted with the marginal note as contained in the report of the Select Committee.

New clause 8 put, and agreed to.

Clauses 6 and 7 as printed renumbered 9 and 10, respectively.

Title and enacting clause.

The COLONIAL TREASURER: As regards the title in this Bill, I hope the learned Attorney-General would agree with me. As printed in the Bill the title is rather narrow and the Committee has suggested that the new title should read:—

"An Ordinance to repeal the Public Officers' Guarantee Fund Ordinance, Chapter 202, to provide for the appropriate disposal of moneys held thereunder; and for purposes connected with the matters aforesaid."

I therefore move that the title be amended accordingly.

Amendment put, and agreed to.
Council resumed.

The COLONIAL TREASURER: I hope the third reading of this Bill will be taken today. This Bill has been on the Order Paper for a long time.

The PRESIDENT: With the consent of the Council we can take the third reading today.

The COLONIAL TREASURER: I beg to move that this Bill be now read the third time and passed.

The ATTORNEY-GENERAL seconded.

Question put, and agreed to.

Bill read a third time and passed.

LANDLORD AND TENANT BILL, 1947

The PRESIDENT: The hon. the Attorney-General will now proceed with the consideration of the Rent Restriction Bill.

The ATTORNEY-GENERAL: Before we do that, I would like to move item 4 on the Order Paper.

The PRESIDENT: Very well.

The ATTORNEY-GENERAL: I beg to move the first reading of a Bill intitled—

“An Ordinance to regulate the relationship between landlord and tenant and to amend the existing law with respect thereto.”

Mr. CRITCHLOW seconded.

Question put, and agreed to.

Bill read a first time.

RENT RESTRICTION (AMENDMENT) BILL, 1947

Council resolved itself into Committee to consider clause by clause a Bill intitled—

“An Ordinance to amend the Rent Restriction Ordinance, 1941, by enlarging the application and the duration of the Ordinance, by making provision for the fixing of maximum rents, and for purposes connected with the matters aforesaid.”

COUNCIL IN COMMITTEE.

Clause 3—Repeal and re-enactment of section 3 of the Principal Ordinance.

The ATTORNEY-GENERAL: Following on the report of the Select Committee and in accordance with the views expressed during the debate on the second reading of this Bill, it is proposed to delete from clause 3 (1) (b) the words “*the standard rent whereof is at the rate of not more than seven hundred and twenty dollars per annum.*” following the word “*unfurnished.*” This amendment is to

carry into effect the point as regards a ceiling for business premises.

The CHAIRMAN: That is to say, the Bill will now include all premises including business premises.

The ATTORNEY-GENERAL: That is so, sir.

Amendment put, and agreed to.

Clause 3, as amended, passed.

Clause 5—insertion of new sections 4A to 4G in the Principal Ordinance.

The ATTORNEY-GENERAL: Here I should point out that clause 4D as printed will be renumbered as sub-clause (1) and a new sub-clause—(2)—will be inserted to read as follows:—

(2) Payment of the maximum rent stated in such certificate may be enforced notwithstanding an appeal under section four E of this Ordinance. but where, on such appeal, it is decided that the rent stated in the certificate is less or more than the rent which ought to have been so stated, the tenant or the landlord shall be liable to pay the difference to the landlord or the tenant as the case may be, and such difference may be recovered accordingly.

The point really is, that during the time or the interval between the hearing of a claim before the Rent Assessor and the appeal some time may relapse, and this provision is to enable the landlord to collect rents due during that interval. It is regarded as fair and equitable that this provision should be inserted.

Amendment put, and agreed to.

The CHAIRMAN: Are hon. Members prepared to take the whole of clause 5, which is a fairly long clause with one amendment?

Clause 5, as amended, passed.

Clause 6—Amendment of section 5 of the Principal Ordinance.

Mr. PEER BACCHUS: I am going to move the deletion of the words “*nineteen hundred and forty-six*” from clause 6 (c) and ask that the words “*nineteen hundred and forty-seven*” be substituted therefor.

It appears to me that this clause is both unjust and unfair, since it means that properties that have not been controlled up to now would be controlled if this Bill is passed, and that condition made retrospective as from January, 1946. I say that if there were advantages being taken by some landlords over certain tenants, Government contributed to that state of affairs. What Government is about to do now should have been done at the inception—when Government thought of controlling rents in the City. Not having controlled the entire rental valuation in the City and having placed a ceiling rent in the existing Ordinance, can Government justly go to the landlords now with this provision? I think the landlords will be entitled to say that it has never been Government's intention to interfere with rents over and above the ceiling figure. It permits, I admit, of a little bit of speculation. The property-owner carries up the rent and so carries up the value of the property. He pays an excessive amount for the property at an enhanced value because he can increase the rent. He acquires the property at an enhanced value because there is no control, and so he increases his rent. As an instance, a house may be rented by the original owner at \$50 per month, his capital outlay on that house being \$5,000; he sells that property for \$10,000 and the second owner knowing that the rental is not controlled and knowing full well there is a demand for houses—

The CHAIRMAN : May I interrupt? Do you ask us to sympathize with him?

Mr. PEER BACCHUS : Yes, sir, because Government contributed to that position. It is in the normal line of business. Knowing the demand for houses he takes the risk of purchasing at an excessive price and increases the rent.

The CHAIRMAN : Can I interrupt again? You say, he takes the risk!

Mr. PEER BACCHUS : In the normal line of business, he increases that rent to \$75 per month. His return from his investment, though he increases his rent, is far lower than the return of the first investor to whom that property had cost \$5,000. I say Government should protect

that interim period. I am not supporting that these people should be allowed to assess the rental according to the capital outlay. Some basis must be taken, however, and that must be retrospective. When Government has contributed to that position, it is not fair that it should be made retrospective to 1946. I am not directly or indirectly interested in any such property deal, but I feel that it is not equity after Government has permitted such a condition to run for so many years. It is intended in this Bill to place a ceiling on rent. If it were not for the fact that it had been brought strongly to Government's notice, that condition would have still continued further. I ask in equity that this sub-clause should not be retrospective from the year 1946.

Mr. FARNUM : I think the hon. Member, the last speaker, has answered himself when he said that it is the businessman who invests and in the property deal he assumes a risk. When a man assumes a risk he must stand by his risk.

The CHAIRMAN : I agree with you entirely!

Mr. FARNUM : What I feel is this: If that speculator, if I may so call him, was not sure in his mind that he would be able to skyrocket that rent according to what he paid for the property, we would not have had the condition as existing today.

The CHAIRMAN : The hon. Member, Mr. Peer Bacchus! Can you give that amendment?

Mr. PEER BACCHUS : I will not actually put the amendment. I only thought of making the point so as to place it on record.

Clause 6 passed.

Clause 7 — Amendment of section 6 of the Principal Ordinance.

The ATTORNEY-GENERAL : There is no amendment to this clause, but the hon. Member who is not in his place, Mr. Gonsalves, who is a member of the Committee, raised a point with regard to sub-clauses (e) and (f). That is to say, the question of the Standard Rent. The sug-

gestion was made by the hon. Member that there should be a minimum amount to be permitted as an increase of the rent of between 10 and 15 per cent. I think, I should put it to the Council. I should point out that we are not endeavouring to make any substantial change so far as the law is concerned, because under the original Ordinance, section 6 (1) (c), provision is made by which the increased rent of a house or land should not exceed 10 per cent. of the standard rent. In other words, 10 per cent. is not a fixed amount as the permitted increase. Therefore, if the amount is called into question, then there is the discretion of the Assessor as to what amount he should give. When the Ordinance was amended by way of the Defence Regulations, No. 16 of 1944, as hon. Members will recall, this question of the permitted increase with regard to rent was dealt with. Regulation 3 of the Defence (Georgetown Rent Control) (Amendment) Regulations, 1944, reads :

"In the application of the Ordinance and of the Principal Regulations to premises to which the Ordinance applies by virtue of these Regulations, the following provisions shall have effect—

- (a) in assessing the maximum rent of any business premises, the Assessor may assess as increase under section 6 (1) (c) of the Ordinance an amount in excess of 10 *per centum* but not exceeding 25 *per centum* of the standard rent, if such amount be in his opinion reasonable having regard to all the circumstances of the case, and thereafter it shall be lawful for the tenant to pay and for the landlord to receive the amount of such increase;"

I pause to point out that is what this Bill seeks to do in regard to all premises. If you look at the proviso on page 11 — paragraph (f) it says:

"by the addition to paragraph (c) of subsection (1) of a further proviso as follows —

"Provided further that where the premises have been or are erected after, or were in course of erection on the eighth day of March, nineteen hundred and forty-one, or where the premises were first let on or after the said date, the Rent Assessor may, if in his opinion and

having regard to all the circumstances of the case an increase of ten *per centum* of the standard rent is excessive, either disallow such increase altogether or assess in place of such increase such less amount than ten *per centum* as he may consider reasonable and proper."

Clearly the basis of all that is what is fair and equitable and, therefore, if the landlord erects a building during that time, from and after the date specified, because of the circumstances he fixes his rent, having regard to his case following upon the observation of the hon. Member for Western Berbice, on as high a figure as he can get having regard to the capital cost and the demand for houses, then the standard rent would be fixed by what the first tenant paid because the standard rent would be that. If a tenant goes in and occupies the premises for a month or two and paid \$70 as the rent, that is the criterion for assessing the standard rent. Therefore all that has to be done is to have one eye on what you paid for the erection of your building and the other eye on the point the hon. Member was endeavouring to make — the demand for houses — and fix your charge, and the Assessor will be faced with a fixed standard rent according to the circumstances of the case. Having regard to that, the permitted increase would be the amount as stated in the Ordinance, 10 per cent. or more, but this proviso enables the Rent Assessor to go into all the circumstances of the case and see whether the landlord is entitled to 10 or 5 per cent., which he regards as fair and equitable.

I suggest to the hon. Member that this is on the basis of what is fair and equitable. No one wants to prevent any landlord from getting a reasonable return for his money, but at the same time neither must he be allowed to create victimization on the tenant. I have made this observation in the light of the fact that the hon. Member, Mr. Gonsalves, who is not here, raised that point in the Committee. The hon. Member for North Western District (Mr. Jacob) and the hon. Nominated Member on my left (Mr. Critchlow) can bear me out, that that was the point raised.

Clause 7 put, and agreed to.

Clause 8—Insertion of new sections 7 and 7A of the Principal Ordinance in substitution for section 7.

The CHAIRMAN: There are some very important amendments, and I propose to take each point in clause 8 and not try to do the amendments together. Let us first of all turn to page 12. I put the question "That 7 (1) (a) and (b) stand part of the Bill".

Question put, and agreed to.

The CHAIRMAN: We now turn to 7 (1) (c).

The ATTORNEY-GENERAL: It was considered desirable that this provision should be extended in cases where the tenant is annoying or becomes a nuisance to the landlord, and consequently there will be the insertion of the words "or to the landlord" after the words "or to other tenants", as printed in the amendments circulated to hon. Members.

The CHAIRMAN: I put the question "That 7 (1) (c), as amended and explained by the hon. the Attorney General, stand part of the Bill".

Question put, and agreed to.

Mr. SEAFORD: I am not quite clear as to the wording.

The ATTORNEY-GENERAL: If the hon. Member turn to the appendix to the Report of the Committee, he would see that it is suggested there to substitute "or to other tenants or to the landlord" for the words "or to other tenants" in paragraph (c) of subsection (1). Therefore in the Bill on page 12 you insert in the fifth line of paragraph (c) after the words "or other tenants" the words "or to the landlord."

The CHAIRMAN: Mr. Attorney-General, will you explain this amendment to 7 (1) (e) (i) ?

The ATTORNEY-GENERAL. If hon. Members refer to 7 (1), it says :

"No order or judgment for the recovery of possession of any premises to which this Ordinance applies, or for the ejection of a tenant therefrom

shall, whether in respect of a notice given or proceedings commenced before or after the commencement of this Ordinance, be made or given unless —....."

Then follow conditions, and this is one to be met —

"(e) the premises being a dwelling-house or a public or commercial building, are reasonably required by the landlord for —

- (i) occupation as a residence for himself or for any member of his family, or for any person *bona fide* residing or to reside with him, or for some person in his actual whole time employment, or
- (ii) use by him for business trade or professional purposes; or
- iii) a combination of the purposes in sub-paragraphs (i) and (ii) above;"

In other words, before the order for possession can be given, any of those conditions must appear in evidence and one of them is (e) —

"The premises being a dwelling-house are reasonably required by the landlord for occupation as a residence for himself."

Obviously and clearly that it fair and equitable. The Committee felt that the words "or for any person *bona fide* residing or to reside with him" are too wide. If the landlord requires the premises for somebody who is residing with him, that is not a ground for possession. Consequently they suggest that those words be deleted.

The CHAIRMAN: All you are doing is deleting the words "or for any person *bona fide* residing or to reside with him". That is not clear in the amendment.

The deletion was agreed to and paragraph (e) passed as amended.

Proviso (1) to Section 7 (1) — Alternative Accommodation.

The ATTORNEY-GENERAL: The point dealt with in that proviso is where possession is required or sought under any of those conditions laid down in the section, as a condition precedent or a prerequisite to obtaining the premises, alternative accommodation will have to be provided by the landlord. That is the

effect of this proviso. The Committee felt that it would be advisable and desirable that the question of alternative accommodation to be provided by the landlord should be deleted. Consequently the amendment is proposed.

The CHAIRMAN: Do you say the landlord has not to provide alternative accommodation?

The ATTORNEY-GENERAL: If he desires the premises for himself. In case he desires it for members of his family or persons in his whole time employment he will have, as a condition precedent or a prerequisite, to provide alternative accommodation.

The CHAIRMAN: If a landlord wants a house for himself he does not have to find alternative accommodation.

The ATTORNEY-GENERAL: Only for himself.

The CHAIRMAN: Who is to say if it is for himself?

The ATTORNEY-GENERAL: If you refer to 7A on page 15, it says:

"Whenever a landlord has obtained an order or judgment for possession of any premises to which this Ordinance applies on any ground specified in paragraphs (e) or (f) of subsection (1) of section seven and the order or judgment is executed or the tenant voluntarily gives up his tenancy in consequence of that order or judgment, the landlord shall be guilty of an offence against this Ordinance —

- (a) if without first obtaining the permission of the Rent Assessor, he at any time uses or permits to be used, or occupies or permits to be occupied, or lets, the premises for any purpose other than the purpose which constituted the ground on which the order was made or the judgment was given; or
- (b) if, having obtained permission as aforesaid, he fails to comply with any terms or conditions (which may include a condition that the former tenant is to be given the option of again becoming a tenant of the premises) which the Rent Assessor may have attached to that permission,—"

The CHAIRMAN: I understand that. You tell me there is a penalty provided for a landlord obtaining a house and not using it for himself. Am I right in saying that in the United Kingdom where they had to do with this question of housing, I do not think the landlord is allowed possession unless he provides alternative accommodation?

The ATTORNEY-GENERAL: I think in Trinidad he has to do so, but this is a concession we are prepared to give because the difficulty of housing applies to the landlord equally as to the tenant.

The CHAIRMAN: I do not know what Members think about it.

The ATTORNEY-GENERAL: I may explain that the proviso is taken from the Trinidad Ordinance.

The CHAIRMAN: As the Bill is printed, the landlord has to provide alternative accommodation whether he requires the house for himself or not. That is clearly a question for this Government. Do Members agree with the Select Committee's amendment which gives the landlord the opportunity to obtain the house for himself and not provide alternative accommodation?

Mr. RAATGEVER: I think it is in order, and it is only equitable that a landlord should be able to gain possession of a house if he wants it for his own purpose. I do not see why he should provide alternative accommodation. It is his property and he has entire right to it. I entirely agree with the amendment.

Mr. SEAFORD: I agree too. If I have a property, I think, it would be extremely unfair if I could not obtain possession to make use of my house. But if I happen to be away from the Colony and want to return, I cannot turn a tenant out unless I find alternative accommodation for him. I look upon that as extremely unfair. If I have relatives living with me and I have houses, I think, I should have the right to give them the use of any other house I possess. I go

further than the recommendation of the Committee and say that the landlord should have the right to take the house for the use of his children and their children who are living with him.

The CHAIRMAN : You have knocked at the root of the whole point. It is an arbitrary rule that the landlord should provide alternative accommodation. It has been found necessary because of the hardship of the tenants who are turned out by the landlords. I think I am right in saying that in the United Kingdom the landlord has no option at all; I am not sure.

Mr. CRITCHLOW : Not only alternative accommodation but suitable accommodation.

Mr. SEAFORD : I do not know what the law is in the United Kingdom, but there had been several cases where the tenants were turned out. Do they then have certain reasons for doing so? I do not know.

Mr. THOMPSON : I quite agree that where a landlord wants a house for himself he should have it, especially if a great hardship is being created in so far as he is concerned. I know several cases of persons who have houses and want to go into them and cannot do so in order to accommodate their children. That I consider a great hardship. Where a landlord wants his house I do not feel he should provide alternative accommodation. He should be given the right to have his house. I do disagree, however, where he wants it for other causes. There is a case I have before me now in which two notices were served and both were contrary. I am supporting that where the landlord wants the house for himself he should get it.

Mr. PEER BACCHUS : I am also supporting the idea that a landlord should be able to get possession of his own house when he wants it. I go further and say that if a landlord wants his house he should be able to get it without being asked to provide alternative accommodation. The last speaker cited a case where a landlord requested possession of a house for his children and yet he could not get it unless

he provided alternative accommodation. There may be cases where one cannot afford to buy another house so that if he wants the one he has for the accommodation of his children it would be a hard case if he could not get it.

Mr. JACOB : As a member of the Select Committee which dealt with this matter, I should like to say that the Committee acted very generously on the representations made on behalf of the landlord as regards possession of his own house. I agree entirely—in my own mind—that a landlord should be able to get his property if he wants it for his family, but we have not had any advocate who has been able to convince the Committee that that should be so. Then again, it is not quite right to compare British Guiana with Trinidad and other places as regards housing conditions. I see from the newspapers that in Trinidad hundreds of houses are being put up monthly, but in this Colony we have nothing going on. Some people buy houses only for themselves and, I think, we should go even a little further than we are going in this Bill. If certain landlords abuse their position, there are certain penalties which can be imposed under clause 13 and, perhaps, it will be advisable to increase the term of imprisonment for those persons who are not doing the proper thing. I think certain practices have been going on too long.

Mr. EDUN : I was not here when this Bill was accepted in principle but, as I understand it, this is an extraordinary measure to meet extraordinary circumstances and, I think, it is desirable that people should not have a free licence to take away houses from others who occupy them. This Bill will only last until 1951 and for that reason, I think, no one should be put out of his house in the meanwhile if no alternative accommodation is provided for him. That does not mean, however, that if a man wants his house for his children he should not be able to get it. That would be an extraordinary circumstance. In England a landlord cannot get his house to give it to anybody he likes, and I do not see why the Committee should permit a different thing to be done here.

The COLONIAL TREASURER : As I understand the hon. Member for North Western District the par.—7. (1) (e) (i) of clause 8 (1)—should read :—“*occupation as a residence for himself or for any member of his family residing with him.*”

The CHAIRMAN : I was trying to make sure that this Council realizes that the amendment will entitle a landlord to take possession of his own property without finding alternative accommodation. Apparently I have put it very clearly because all the speakers have stated that they are in favour. I do not know whether the hon. the Colonial Treasurer is now in favour, but I am in favour of going further than that.

Mr. SEAFORD : We are in favour of going further.

The CHAIRMAN : It is a matter of opinion.

Mr. FARNUM : I think a landlord should be allowed to have possession of his property without being made to find alternative accommodation. The question of getting possession for the accommodation of his children was also discussed by the Committee, and the question raised was who should be the landlord's immediate relatives. We found ourselves up against a rock, however, and consequently left it at that.

Mr. GONSALVES : The hon. Member who has just spoken would recall that the original feeling in Committee was that the Bill should provide for the landlord and his family, but it was thought that that would be too elastic—to provide for the landlord's children and grand-children, or else. There was a feeling in Committee that we should limit it to these people. The hon. the Attorney-General in his report states that it is limited to the landlord only, but I think it is because there was that difficulty in Committee as to what constituted his family. I agree that the provision should not be too elastic, but I was certainly in favour of providing for the landlord and his family. The majority report of the Committee confines the idea to the landlord only and the hon. the Attorney-General has left that point along with certain others for decision in this

Council. Although the report may state that the Committee restricted the provision to the landlord only, I will certainly agree today to the insertion of provision for his family also, even if we have to define the word “family.” I pointed out in the Committee that a man may have a daughter who has recently got married but cannot find a house to live in and unless he can get one of his houses for her it will be very difficult for her to get a start in life; therefore I thought the children of a landlord should be given fair consideration. Then, another member of the Committee said that the landlord might have an old father or an old mother and in that case he might argue that his parents are also entitled to consideration. I agree that that would be a hard case, but the feeling is that the provision should not be extended to them. I feel, however, that no Member of this Council would like to know that he has a house cannot get possession of it for the accommodation of his father or mother, as the case may be.

I think the provision can well be extended to cover a landlord and his family, and if we do not want to make two steps forward we can at least make one up and one down. I am not saying anything which I have not advocated before, because I suggested that to the Committee and, I think, it will be necessary to insert the provision I have suggested today. I do not know how far the discussion has gone with regard to this particular clause of the Bill, but I recollect that it was also discussed in the Committee that the question of finding alternative accommodation should apply equally to those landlords who own dwelling houses and those who own business premises. I think a landlord should have the right of possession to a building for the purpose of carrying on his own business. The hon. the Attorney-General has, for some reason, not referred to that point but he would agree that it was raised in Committee. I am sorry I could not get here before now, because I was engaged in a matter in the Supreme Court.

The ATTORNEY-GENERAL : What the last speaker said is perfectly true with regard to the discussion which took place in the Committee. I think that at the last

meeting—last Monday morning when the hon. Member was not present—we decided to limit this question of liability to provide alternative accommodation to dwelling houses only when required by a landlord for his personal use. As the hon. Member has stated, you might begin by extending the provision to include the children of the landlord and then go on to his parents and grand-parents, so that it is difficult to say what point you should stop at. I should say also that this question of “members of his family” will open the door to the provision being used improperly; I will put it that way. There are some people who will observe the provision properly, but there are others who will not.

The point was made that a landlord who finds himself in the fortunate position of having houses of which he can obtain easy possession as a result of this provision, will be able to rent to any person who is willing to pay him more, and the public will be at the mercy of every landlord. A decent citizen should not be put in the position of a tenant seeking refuge and finding none. As the hon. Nominated Member, Mr. Edun, has said, these are emergency measures to meet emergency conditions. That should be fully realised and that is why we have the words “fair and equitable” as the guiding principle in all these things. In other words, are landlords to be permitted to put considerable amounts of profit into their pockets and make capital of the present difficult conditions?

With regard to the point made by the hon. Member for Georgetown South (Mr. Gonsalves) I suggest that we have another proviso to follow after this one. The first proviso deals with dwelling houses, and where the landlord requires a house for himself alternative accommodation is a prerequisite. In the second proviso it is not a question of alternative accommodation as a condition precedent to possession, but it is a question to be taken into consideration by the Rent Assessor in coming to a conclusion on the question of equity. It is a question to be decided in accordance with the side on which the greater hardship accrues. It is not whether a landlord is to provide alternative accommodation,

but whether alternative accommodation is available.

Then, there is the point as regards business premises. A discussion took place in the Committee around the question whether a landlord, who has a business premises and wants to get possession of it to carry on his own business, should be put in the same position as the landlord of a dwelling house and made to provide the tenant with somewhere else to carry on his business owing to the inconvenience he might otherwise have to suffer. The matter is a very difficult one, and I shall ask the indulgence of Members of this Council, if they decide on the first point, to agree that a landlord should have his premises for his personal use only. One hon. Member suggests that the privilege will be abused and that a landlord should be heavily fined or sent to prison if he uses this provision for an improper motive. As regards the second proviso I will ask again that it be postponed. I have a new one in draft and, I think, it follows on the principle which this Council has decided.

The CHAIRMAN : Will you read in your own words the text of the proviso ?

The ATTORNEY-GENERAL : It says : —

“Provided that an order or judgment shall not be made or given in respect of a dwelling-house on any ground specified in paragraph (e) of this subsection unless the Court is also satisfied that alternative accommodation is available which is reasonably suitable to the means of the tenant and to the needs of the tenant and his family as regards extent, character and proximity to place of work and which consists either of a dwelling-house to which this Ordinance applies, or of premises to be let as a separate dwelling on terms which will afford to the tenant security of tenure reasonably equivalent to the security afforded by this Ordinance in the case of a dwelling-house to which this Order applies;.....”

I think the hon. Members on the Select Committee had the benefit of comparison and of paraphrasing this proviso. We have not put in the word “landlord” and, therefore, it means that the proviso will not apply to landlords in so far as alternative accommodation is concerned,

but it will apply to members of his family or persons in his whole-time employment.

The CHAIRMAN : I thought we had taken out the words "*on any ground specified in paragraph (e) of this subsection.*"

Mr. GONSALVES : The hon. the Attorney-General is working in reverse gear, sir.

The CHAIRMAN : It seems to me that the members of the Committee thoroughly understand it. The main principle is that only the landlord will be exempted from providing alternative accommodation, and I certainly suggest that the amendment should be accepted as put forward by the Select Committee. I agree that unless you make it very clear it will be very difficult for the layman to follow it. I sincerely ask Members of this Council to accept the report of the Select Committee.

Mr. PEER BACCHUS : I think there should be some further explanation by the hon. the Attorney-General. Supposing this Council does not accept the proviso as printed, what will be the position of the landlord?

The ATTORNEY-GENERAL : The landlord will not be able to get his premises without providing alternative accommodation. At present it is suggested that he should get it but only for himself.

Mr. PEER BACCHUS : I think the majority of the Members of this Council want the provision to be extended to include members of the family of the landlord and, I think, the wish of the majority should be given some consideration.

Mr. CRITCHLOW : Certain hon. Members are only considering the landlords and their families, but what about the families of other people—are they not as good? I think the landlords should not only find alternative accommodation, but they should pay for the transportation of tenants' belongings and so on, as is done in other countries. There are Christian landlords in other countries, but you have not got any here.

Mr. GONSALVES : It is difficult to determine what the word "family" means.

I have already indicated that if the question is made too difficult we might go beyond territorial waters and define "family" as including a landlord's parents and children.

The CHAIRMAN : Surely, "children" is a very wide term.

Mr. GONSALVES : The law only recognizes legitimate children, but perhaps Your Excellency's ideas are wider than mine. Perhaps it would meet the hon. Member who has just taken his seat, if we do as I have suggested and, I think, there are other Members who would like to see the proviso extended to include the family of a landlord. I was inclined to indulge in some laughter when Your Excellency expressed difficulty in understanding the first proviso. The hon. the Attorney-General has a way of drafting these things which create some difficulty. I agree that he is a very ingenious draughtsman—a very clever draughtsman—and if one does not understand a thing he would get away with it.

The CHAIRMAN : I think we should get it quite clearly in this Council, whether this Council accepts the report of the Select Committee or whether it wants this provision widened.

Mr. SEAFORD : I think it should be widened and, I think, the word "family" should be defined, as stated by the hon. Member for Georgetown South (Mr. Gonsalves), to include children of a landlord. I do not think it should be extended any wider than that; I do not think we should say "any member of his family" as that would be too wide.

The CHAIRMAN : I think the best thing to do is to put this proviso with the amendment of the Select Committee and, if the majority of Members vote in favour of it, then it would be accepted. If, however, the recommendations are thrown out we can get them revised and come back with another draft. The hon. Member for Georgetown North (Mr. Seaford), the hon. Member for Georgetown South (Mr. Gonsalves) and the hon. Member for Western Berbice (Mr. Peer Bacchus) would like to see the proviso widened, but I am not sure that everybody wants it. I shall therefore

put the question "That the proviso as amended by the Select Committee stand part of the Bill."

Mr. GONSALVES : It is a little complicated, sir.

The CHAIRMAN : I am trying to make it easy.

Mr. GONSALVES : In order to be able to take the vote correctly on that particular subsection I was going to move an amendment.

The CHAIRMAN : If it is thrown out, then you would have an opportunity of moving an amendment, but let us take the vote first and see whether the Council accepts the report of the Select Committee.

Mr. GONSALVES : The only difficulty about that is this : Let us assume that the motion is put to accept the report and it is voted against, then the section as in the printed Bill will be the matter before the Council.

The CHAIRMAN : If the Select Committee's recommendation of this particular proviso is lost, then we would hold that particular proviso over and decide what to do with it.

Mr. GONSALVES : You are going to take a vote on the motion as to whether the Committee's recommendation is accepted

The CHAIRMAN : I am going to put the question, whether this proviso as recommended by the Select Committee, should stand part of the Bill.

Mr. GONSALVES : With all due respect to you, it is not the proviso we are dealing with, but subclause (1 (e)).

The CHAIRMAN : We are dealing with the proviso. The question is whether the first proviso to clause 8—section 7 (1)—as amended by the recommendation of the Select Committee should stand part of the Bill.

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

For : Messrs. Farnum, Thompson, Roth, Edun and Critchlow, the Attorney-General and the Colonial Secretary—7.

Against : Messrs. Raatgever, Peer Bacchus and Seaford, and the Colonial Treasurer—4.

Did not vote : Messrs. Jacob and Gonsalves—2.

Amendment carried.

Proviso (2) to Section 7 (1).

The ATTORNEY-GENERAL : In view of that decision I ask leave to postpone the second proviso. Hon. Members have expressed themselves on it.

Mr. EDUN : As I see it, the whole thing will have to be redrafted. There is no provision—

The ATTORNEY-GENERAL : For what?

Mr. EDUN : For the principle laid down here.

The ATTORNEY-GENERAL : Yes, there is.

Mr. JACOB : May I say this? It is clear the concession that has been granted to the landlord finds approval with this Council. Then further, if I can gauge the feeling of this Council aright, they want the concession granted to extend to members of the landlord's family.

The CHAIRMAN : No; they voted in favour of the Select Committee's report.

Mr. JACOB : I just want to make my point. As a member of the Committee I found extreme difficulty in arriving at this conclusion. I am going to endeavour to get the Select Committee to meet again and reconsider the matter and then ask to recommit this matter.

The CHAIRMAN : Not after voting on the matter! I put it so clearly that everyone in Council knew what he was voting on.

Mr. JACOB : I have not voted because I felt—

The CHAIRMAN : I think we must abide by the decision of the Council. No Member could possibly have voted under any misapprehension. I told those who

were voting for, that they were limiting the concession to the landlord himself only and if they wanted the concession extended to his family they should say "No." Those who wanted it extended said "No" and they were in the minority.

The ATTORNEY-GENERAL : I pointed out that following on the observations of Members the second proviso hinged on the first. That is a question of balance of equity and where alternative accommodation is available. Following upon the discussion they want it extended to the landlord in relation to business premises in the same way as to dwelling-house. As I said at the beginning this proviso must be held over.

The CHAIRMAN : You want Proviso, No. 2, held over.

The ATTORNEY-GENERAL : Yes, sir; and Members know that already.

Consideration of second proviso deferred.

Proviso to section 7 (7)

The ATTORNEY-GENERAL : It is desired to add paragraph (c) which will bring in all the grounds for obtaining possession.

Mr. SEAFORD : What is the meaning of it ?

The ATTORNEY-GENERAL : The meaning of it is this : If you turn to page 12 you would see several paragraphs to 7 (1) and (c) is one of the grounds for possession. It is being inserted in this proviso because where a tenant has misbehaved himself, as set out in (c), that will be a ground for ejection or recovery of the premises. I hope the hon. Member appreciates it.

Mr. SEAFORD : I appreciate it.

Amendment put, and agreed to.

Clause 17—Amendment of section 16 of the Principal Ordinance.

Mr. RAATGEVER : I am moving the deletion of this clause. I do not see the necessity for extending the Bill to 1951.

I think it should be made for a period of twelve months and then brought back here for revision at the end of that period, and in the light of experience gained what is thought necessary may be done.

Mr. SEAFORD : Why you want it to remain going four years ? Is it to bring conditions to normalcy ? There must be some reason for fixing 1951.

The CHAIRMAN : I think the answer is, as the hon. Member and the previous speaker must realize, normally there is difficulty in getting rebuilding started. I do not think the Committee ever expected normal conditions to take place in British Guiana, as regards the normal provision of houses in British Guiana, before then.

The ATTORNEY-GENERAL : That is the position.

Mr. EDUN : The hon. Nominated Member who moved the deletion of the clause is a businessman and, I think, he ought to know that housing conditions are very difficult not only here but all over the world and moreso abroad. I do not think we will be able to put things in order for the next ten years, and five years will be a period to secure all the knowledge in experimentation that we need. No Member of this Council would ever agree that the Bill should be for twelve months.

Mr. JACOB : May I suggest that this clause be deferred and the Select Committee go into it ?

Mr. FARNUM : I think the Committee went into it very exhaustively and extensively and was certainly in favour of 1951.

Mr. GONSALVES : Certain Members were in favour of 1951 and certain other Members, including myself, were in favour of making it 1948 or 1949 as a compromise, as we felt 1951 was too long. The hon. the Attorney-General will recollect that in order to get around it he said, if you want to shorten the period you can move a motion to the effect. When things get on the Statute Book it is the devil's own job to get them off. Let us have it definite as 1949; if that is not acceptable, then 1948 and leave it at that. I am getting

tired of the whole Rent Restriction Bill and Government legislation.

Mr. JACOB : There is this other aspect of it. Certain things here are going to create severe hardship. I hope we will gain experience. If Government is adamant and will not bring forward repeals or amendments, we cannot force Government to do that and, therefore, it is safer to limit the Bill to two or three years, or one year as suggested. It can come up year after year in formal resolution, but the difficulty is that Government is not keen on having any amendments. We can do nothing at all once it is passed here.

The CHAIRMAN I say this Bill is a matter for the Council. If the Council wants it limited to one year, say so. Government is not pushing anything on the Council. There is no point in referring it to a Select Committee. Here you have a proposal for a certain period; if you want it amended, do it now. Is the hon. Nominated Member moving an amendment?

Mr. SEAFORD : I do not think the Council desires to have it limited to one year. The hon. Member thinks amendments are necessary, and making the Bill for one year will give a chance of reconsideration at the end of the year.

Mr. CRITCHLOW : This question of houses cannot be solved overnight. The population is increasing, and I think the period fixed is reasonable.

Mr. EDUN : I cannot understand the mentality of certain Members when they say it will create a hardship. I know this Rent Restriction Bill is contemplated to provide for a majority of people, the tenants. We are not creating a hardship for them but for the landlords, and especially for those people who want to come from the country districts to live in Georgetown at the expense of those who are there already. So I do not understand that mentality. The point is, an experimentation of this kind will take five years. Travelling abroad at this time one sees conditions; one sees in England how the prosperity programme is being carried out there at

the expense of a vast majority of people. Here, because a few landlords cannot get houses for themselves they are suffering. The tenants are to be protected. The whole principle of this Bill is rent restriction for extraordinary circumstances and, I think, we ought to accept it. Government has done the right thing.

Mr. RAATGEVER : I do not see any hardship is being created in bringing the Bill annually for revision or extension for another period of twelve months. We have precedent in the Income Tax Bill which was enacted for twelve months to come up again after twelve months. That is a more important Bill than this one.

Mr. GONSALVES : I am going to try and bring this matter to a head by moving that in clause 17 the word "forty-eight" be substituted for the word "fifty-one" in paragraph (a), so that it will read 1948 instead of 1951.

Mr. THOMPSON : I am supporting "1951". At this time we find it very difficult to obtain building materials, nails etc. We are passing through a transitory period. We have a great deal of experimentation to get through and, therefore, I think the best thing is to let the Bill run to 1951. One year will hardly be enough. Therefore I am supporting that the period be 1951.

The CHAIRMAN : I will put the amendment. It is a matter for the Council. I personally am in favour of 1951. I will put the amendment that clause 17 (a) be amended to read "*thirty-first day of December, nineteen hundred and forty-eight*" instead of "*nineteen hundred and fifty-one.*"

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

For : Mr. Gonsalves—1.

Against : Messrs. Farnum, Raatgever, Thompson, Edun, Roth, Critchlow and Seaford, the Attorney-General, the Colonial Secretary—9.

Did not vote : Mr. Jacob and the Colonial Treasurer—2.

Amendment negatived.

The CHAIRMAN : Does the hon. Nominated Member want to move his motion ?

Mr. RAATGEVER : I am moving the deletion of (a).

The CHAIRMAN : What do you mean ?

Mr. RAATGEVER : If you look at the original Ordinance it states a period of one year.

Mr. GONSALVES : The hon. Member does not realize the section in the 1941 Ordinance will be the section.

Mr. RAATGEVER : It says "*a period of one year beginning with the date of the commencement of this Ordinance.*"

Mr. GONSALVES : The trial is the voting !

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

For : Messrs. Raatgever, Gonsalves, Seaford—3.

Against : Messrs. Farnum, Thompson, Roth, Edun, Critchlow, the Colonial Treasurer, the Attorney-General, the Colonial Secretary—8.

Did not vote : Mr. Jacob—1.

Amendment negatived.

Clause 18—Sub-letting.

The ATTORNEY-GENERAL : With regard to the question of sub-tenancy, as hon. Members will see from the report, the Committee's view was that there should be no sub-letting without the permission of the landlord in writing. This is one of the points represented on behalf of the landlords to the Committee. The question as to whether the tenants should utilize the premises rented for the purpose of sub-letting without any reference to the landlords was considered, and the Committee thought the landlord should be in a position to give permission in writing before any sub-letting takes place. That should operate from the commencement of this Ordinance, so as not to interfere with people who have already made this

arrangement. We do not want unnecessarily to create difficulty in regard to sub-tenancy which has already taken place. Then the second point is that the rent paid to the tenant should be controlled. The sub-tenant has the right to go to the Rent Assessor to have his rent fixed in case he regards it as being too high.

There was one other point that is covered, where the tenant as the result of the creation of the sub-tenancy has been in a position to make profits, at some times fairly good profits. The Committee felt it desirable in some way to limit it so as not to create any financial difficulties for the sub-tenants. I suggest that has been dealt with by the manner in which these amendments have been framed. To put in the words "*No profits shall be made thereby*" will be rather difficult when you go to argue the matter in Court. The new clause 18 as printed has been put forward, and I now move formally that it be inserted in the Bill.

Mr. GONSALVES : I think the hon. the Attorney-General will agree that this clause provides for both the landlord and the occupier of the house, whom you may like to describe as a tenant, because it gives to the tenant, who has sub-let to his less better-off people the rooms in the house he has rented, the right to do so and it helps the sub-tenants by giving them a means of control over their immediate landlord-tenant, who had in the past done as he pleased. The sub-tenant as a tenant will be protected by this clause from his immediate landlord who is a tenant of the landlord. That is something this class of tenant will much appreciate. I think it is only fair that the provisions of this clause should obtain so as to prevent the houses of some landlords from being made real huts by some tenants.

Mr. EDUN : I think this is indeed a very wise provision. Government and this Council have been always considering that migration from the country districts to the City should be reduced, and in the past this sub-letting business had a tendency of bringing people from the country districts to Georgetown. I think, this will do away with that and any tenant who en-

deavours to use his tenancy for profit will be controlled by this provision which is very wise indeed. I have been asked to raise the question that when a tenant has gone to the expense of providing for his sub-tenant that should be taken into account by the Rent Assessor, but I think that provision is here also.

The ATTORNEY-GENERAL : As the hon. Member will see, in clause 18 (c) there are the words "*having regard to the rent payable by the tenant to the landlord and to all the circumstances of the case.*" Therefore, the Rent Assessor is given a wide discretion with regard to all these matters.

Mr. EDUN : I agree that he has a wide discretion.

New clause 18 put, and agreed to.

The CHAIRMAN : I think, Mr. Attorney-General, we had better leave the Bill in Committee stage.

The ATTORNEY-GENERAL : I agree with that.

Council resumed.

The PRESIDENT : I want to get this Bill passed as quickly as possible and, if

we adjourn until Thursday, March 13, the hon. the Attorney-General will have the draft of the proviso ready and any other business.

The ATTORNEY-GENERAL : That is so, sir. We can take the second reading of the Landlord and Tenant Bill, because it is a very long Bill and we will like to get on with it. I hope hon. Members will appreciate that.

Mr. GONSALVES : I think we can take the third reading of both Bills at the same time.

The ATTORNEY-GENERAL : I do not think that can be done as quickly as the hon. Member thinks.

Mr. GONSALVES : I think a promise is a promise.

The ATTORNEY-GENERAL : It was promised that we would have the Bill read, not to have it passed. I appreciate the hon. Member's sense of humour, however.

The CHAIRMAN : I adjourn the Council until 2 o'clock on Thursday, March 13.