

**LEGISLATIVE COUNCIL****THURSDAY, 13th 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. E. G. Woolford, O.B.E., K.C. (New Amsterdam)

The Hon. C. V. Wight, O.B.E. (Western Essequibo).

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

The Hon. J. B. Singh, O.B.E. (Demerara-Essequibo).

The Hon. F. Dias, O.B.E. (Nominated).

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

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

The Hon. T. Lee (Essequibo River).

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

The Hon. V. Roth (Nominated).

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

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

The Clerk read prayers.

The minutes of the meeting of the Council held on the 7th March, 1947, as printed and circulated, were taken as read and confirmed.

**ANNOUNCEMENT**

OFFICE OF CROWN SOLICITOR, OFFICIAL RECEIVER AND PUBLIC TRUSTEE

The PRESIDENT : I would just like to say that in accordance with the request of Members of the Legislative Council I propose to appoint a Select Committee comprising all legal Members of the Council under the Chairmanship of the Attorney-General "to consider and report on the functions and duties of the Office of Crown Solicitor, Official Receiver and Public Trustee, and to advise as to whether any suitable changes can be made in the present organization." I have informed the Attorney-General that the appointment of the Committee is subject to the approval of this Council. I understand that the Council is anxious for a Select Committee to be appointed, and I propose to meet their wishes accordingly.

**PAPERS LAID**

The COLONIAL SECRETARY (Mr. Parkinson, Acting) laid on the table the following document :—

Report of the proceedings of the first meeting in Jamaica of the Provisional Council of the proposed University College of the West Indies by the British Guiana Delegate—His Honour Mr. Justice Luckhoo.

The COLONIAL TREASURER (Mr. McDavid) laid on the table the following:—

The minutes of the Proceedings of the Finance Committee of the Legislative Council held on the 27th of February, 1947.

**BILLS—FIRST READING**

The ATTORNEY-GENERAL (Mr. F. W. Holder) gave notice of the introduction and first reading of the following Bills intitled :—

"An Ordinance to provide for the registration and regulation of factories, and for purposes connected with the matters aforesaid."

"An Ordinance to amend the Workmen's Compensation Ordinance, 1934, for the purpose of extending its application and in respect of miscellaneous matters connected therewith."

## ORDER OF THE DAY

RENT RESTRICTION (AMENDMENT) BILL,  
1947.

The PRESIDENT : I propose that we should proceed with item 1. We are in the Committee stage with one proviso to deal with. After that, the hon. the Attorney-General would like to move the second reading of item 3—A Bill intituled "An Ordinance to regulate the relationship between landlord and tenant and to amend the existing law with respect thereto". Then, if we have time the hon. the Colonial Treasurer will move his motion.

The ATTORNEY-GENERAL : I beg to move that this Council resumes consideration in Committee of the following Bill intituled :—

"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."

I have copies of the proposed amendments and will hand them over to hon. Members.

Mr. WOOLFORD seconded.

Motion put, and agreed to.

## COUNCIL IN COMMITTEE

*Proviso (2) to Section 7 (1).*

The ATTORNEY-GENERAL : The proviso to be dealt with is on page 14 of the Bill—at the top. Hon. Members will see that this proviso, as printed, reads :—

"Provided further that an order or judgment shall not be made or given on any ground specified in paragraph (e) of this subsection in respect of premises other than dwelling-house, or in paragraphs (f) and (h) of this subsection unless the Court is also satisfied that, having regard to all the circumstances of the case, less hardship would be caused by granting the order or judgment than by refusing to grant it,....."

Paragraph (e) appears on page 12 of the Bill and I desire to emphasize the words "*premises other than dwelling-*

*house,*" in the proviso which I have just read. As I explained to hon. Members while we were considering this Bill last week, this second proviso deals with the matter on a wider basis than the first proviso. In the first proviso the question is, really, that where a landlord wants a premises for himself or for any purpose stated in (e)—for business or commercial purposes—then the question of alternative accommodation is an element to be considered by the Rent Assessor in determining the question of possession. In the first proviso there are several limitations with regard to this question of alternative accommodation, and these are related to the question whether the accommodation available is reasonably suited to the means of the tenant and his family as regards extent, character and proximity to place of work, but in this second proviso it is only a question of availability. In other words, if a tenant occupies premises and the landlord desires those premises for business or commercial purposes, then questions of the tenant's means, proximity to place of work and so on would not come into the picture. One of the elements for consideration will be whether other accommodation can be found. If I understand the wish of the Council correctly, I think, this proviso meets hon. Members since it puts the landlord who requires a premises for himself—for the purpose of his business—on the same footing as if he requires a dwelling-house for himself. The draft of this second proviso reads :—

"Provided further that an order or judgment shall not be made or given in respect of a public or commercial building on the ground specified in subparagraph (ii) of this paragraph unless the Court is also satisfied that, having regard to all the circumstances of the case, less hardship would be caused by granting it, and such circumstances are hereby declared to include the question whether other accommodation is available for the landlord or the tenant;....."

In other words, we have not omitted to provide that if the premises are required for use by the landlord himself as business premises, then the question of available accommodation should come into play.

The CHAIRMAN : I take it that you are really making this proviso to meet the wishes of the Committee. I think the feeling is, that if it is inconsistent for a landlord to get a dwelling-house for himself without providing alternative accommodation then it should be equally inconsistent for him to be able to get a business premises in that way.

The ATTORNEY-GENERAL : Yes, sir; that is the effect of this proviso.

Mr. JACOB : I do not think that is quite clear from this draft. I think this Council agreed quite clearly that a landlord should get his premises—a dwelling-house or a business premises—without any hindrance, as provided in the existing Ordinance or the draft Bill. The draft Bill provides that before a landlord can get his own premises the Court will have to be satisfied as to the needs of the tenant and his family as regards extent, character and proximity to place of work, and so on, but this proviso makes it quite clear that the Court is to be satisfied "*that, having regard to all the circumstances of the case, less hardship would be caused by granting it, and such circumstances are hereby declared to include the question whether other accommodation is available for the landlord or the tenant;.....*" If the Court is satisfied that other accommodation is available for the landlord then the Court need not grant the application, but if it is satisfied that other accommodation is available for the tenant then it might grant the application.

This amendment, therefore, puts certain tags on the granting of a premises to a landlord for his own use. I have discussed this matter with the hon. the Attorney-General and have suggested to him that the latter part of this proviso, including the words "*unless the Court is also satisfied.....*", should be deleted. It seems to me that this proviso limits the first proviso that was passed by this Council at the last meeting and, perhaps, other Members will be able to say whether I am correct or not. It is clear to my mind, however, that a landlord can get his premises without determination of the question whether other accommodation is available for the tenant.

The CHAIRMAN : The hon. the Attorney-General will explain.

The ATTORNEY-GENERAL : There are qualifying words at the end of the proviso. In order to clarify the hon. Member's view I will say that the important point to bear in mind is this : Provided the landlord requires the premises for occupation as a residence for himself, or for occupation as a residence for any member of his family, or for some person in his actual whole-time employment, and the other circumstances mentioned in par. (e). When the Bill was first drafted the other aspect of the question was not dealt with in the proviso. In other words, we have now omitted the case where a landlord requires the premises for himself for the purpose of business, and the amendment drafted gives what hon. Members have before them with regard to dwelling-houses. That is to say, in so far as dwelling-houses are concerned a concession is made in (e) to the landlord—that where he requires a premises for himself then the prerequisite relating to the availability of other accommodation will not apply. We have left out of the matter the question as to the landlord requiring the premises for his own use for business purposes. This and other aspects will be dealt with by the Magistrate, such as cases where the landlord requires a business premises for a member of his family or for some person in his actual whole-time employment. It is the same thing as we had before in the other proviso.

The CHAIRMAN : The question, as I understand it, is quite simple. It is whether a landlord should be able to take possession of his own premises for himself without providing other accommodation, and whether he should also be able to say that his family had no alternative accommodation. If these amendments find favour with the Council, then hon. Members have agreed that a landlord can for his own use take over a premises without having to find alternative accommodation. This proviso before us provides exactly that. The sub-clause, which the hon. Member for North Western District (Mr. Jacob) referred to, deals entirely with cases where the landlord raises the question of his

family, and it is there that the tags are still kept on.

Mr. C. V. WIGHT: The Select Committee decided that if the landlord requires the premises for himself—whether it is a dwelling-house or a business premises—there is no need for him to find alternative accommodation. If, on the other hand, he does not require the premises for himself then the element of alternative accommodation is to be considered by the Magistrate. That seems to me to be the recommendation of the Committee and what this legislation is in fact carrying out. In other words, if Mr. A. requires possession of a business premises for his son-in-law this element of alternative accommodation would creep in, and the same thing would apply in the case of a dwelling-house. If he requires a dwelling-house or a business premises for himself, however, then no question of alternative or other accommodation comes in. If that is what the hon. the Attorney-General says the proviso means, then it seems to me that the intention of the Committee would be carried out. The proviso may be a little lengthy or unwieldy, but that seems to be the construction that will have to be placed upon it by the Rent Assessor.

Mr. GONSALVES: There is no doubt that it will be difficult to get this clause worded in a way to meet the decision of the Select Committee. The last speaker has, I think, put the position rightly. If the amendment as proposed is intended to carry out the views or wishes of the Committee, the position would seem to me to be clear. As regards the first proviso it is stated that the conditions therein will apply to persons other than the landlord. That is to say, a landlord in taking possession of premises for himself has not got to find alternative accommodation, but if he wants it for a member of his family or somebody else then he has to find alternative accommodation. The hon. the Attorney-General has worded the proviso in such a way as to create suspicion but, as I see it, the right of the landlord will be preserved and he will be exempted from the question of alternative accommodation plus greater hardship.

In view of the statements made by certain hon. Members I would like to have a very clear, a very definite and emphatic statement from the hon. the Attorney-General that these two provisos will carry out the intention of the Committee. If he gives a definite statement that that is the position, I take it, he would not be in any way perturbed if a Court of law considers these provisos wrong in any way and that he would protect the persons concerned. I think the position should be made clear so that there should be no mistake or difficulty in interpreting the law, and I would like to get it from the hon. the Attorney-General definitely that these two provisos provide for the things which the last speaker and I indicated.

Mr. LEE: I would like the hon. the Attorney-General to make very clear the meaning of the words "*any member of his family*" as relating to a landlord. For instance, a certain client of mine bought a property in the city for his wife, but she lives in the country and not on this property. She is the landlord, but I would like to know whether a Court of law would prevent the husband from getting possession of the property which belongs to him in equity if he wants to live in it himself, and if that husband should be made to show any of the reasons provided here. I think the hon. the Attorney-General should state definitely what is meant by the words "*any member of his family*" and also what is meant by "*landlord*". In equity, the husband's money having been paid for the property to which I have referred, the Court will hold that the wife was holding it in trust for her husband.

Mr. WOOLFORD: Has conveyance been made of this property? If so, what does the affidavit say?

Mr. LEE: My learned friend knows—as he appeared in many cases of that kind—that the Court has often been asked to declare a property as having been held in trust by one person for another. I want to be clear as to whether a husband whose money has bought a property for his wife should be left at the whims and caprices of the Rent Assessor. I do not know whether the Select Committee considered that aspect of the matter in making this

proviso. In this provision here the husband will have good reasons why he wants it, but if he cannot find alternative accommodation he cannot have the use of his own house. I feel a definition should be inserted as to what is the meaning of "member of family." As it stands I cannot vote for the amendment.

Mr. GONSALVES : I think the hon. Member has lost sight of this fact : The Bill says you have to find alternative accommodation whether "member of family" is defined or not. A prerequisite is the finding of alternative accommodation.

The CHAIRMAN : The whole point of not permitting the landlord to take over the premises for his family without finding alternative accommodation is the very reason the hon. Member for Essequibo River (Mr. Lee) has said. It is very difficult to define what "family" is. The hon. Member, Mr. Lee, is pushing an open door.

Mr. GONSALVES : A man may go away on war service and will not be returning. The question then arises whether he is still a member of the family for the purposes of this Bill. It is specifically stated that family relates to father, mother, son or daughter. I do not think my hon. Friend need worry with that aspect of it.

Mr. LEE : I do not know whether I am, perhaps, a little dense !

Mr. GONSALVES : No; maybe the hon. Member has an idea in his mind but he has not put it.

Mr. LEE : I am going to put it now. The landlord is the person who owns the property in his name and by our Conveyancing Law he is the owner. His son or daughter is not the owner by transport and, therefore, cannot get possession of the property without good reason. That is my point. If you want to define "landlord" as being wife, husband, son or daughter, then let it be so defined. Let us assume for argument's sake that a man works in the Bush and owns a premises. He is not occupying that premises, though his wife and children will be doing so. When a question is put to him before the Assessor as to where he resides, he must say I am

working in the country and I live there. Can he get possession of that premises at once without giving reason ? "Member of family" must be defined. If you want to say "member of family" includes a person outside one's immediate wife and children, then let it be so defined. Let us assume that the landlord wants the premises for his son, he has to give reason. A man buys a property for his convenience and should have it for the accommodation of his wife and children. I am asking Government to define definitely in this Bill "member of family", as in the Appeal Court it may be interpreted different to what is meant here. I think I have made myself perfectly clear now. In our law the person in whose name transport is given is the owner of the property and, therefore, his wife is not the owner and cannot obtain occupancy of the premises unless alternative accommodation or reason is provided.

The ATTORNEY-GENERAL : If the hon. Member looks at clause 8 he will see there set out the restrictions on the landlord's right to possession. Let us assume for the purpose of argument that the wife owns the house and requires it for occupation as a residence. If the husband and children go and live there, is not that occupation by the landlord ? After all that is her home, where the family resides. Put it the other way, if a person, who is a seaman travelling up and down and just comes into the Colony now and then, owns premises in which he wants to put his wife, are those premises not required by him for use as his residence ? The difficulty, so far as the hon. Member's point is concerned, is as regards the elaboration on "members of family," which can be extended so far until it becomes almost ridiculous, unless you are going to limit it only to his wife and children. Personally I think it is desirable to leave it as it is.

As regards the question of reasonable requirement for occupation of a dwelling-house as a residence or business trade, in answer to the hon. Member for Georgetown South (Mr. Gonsalves) the provisos in the Bill are designed to meet the points which the Committee suggested and recommended. That is to say, (a) if the

landlord requires the premises for himself, then there are no limitations in that regard; (b) if the landlord requires the premises for himself for the purpose of business then the question of liability for alternative accommodation does not come into play. The reason why the proviso may appear to be involved is, it has to meet other aspects of the situation in connection with members of the landlord's family or people in his whole-time employment. I think I have made it perfectly clear to hon. Members.

Mr. JACOB : I am not fully satisfied, but I am going to accept the explanation given by the hon. the Attorney-General. As stated by the hon. Member for Western Essequibo (Mr. C. V. Wight), and the hon. Member for Georgetown South, who are Members of this Select Committee including myself and one or two other Members who are not here, the idea was that a landlord can get his premises for residence or for public or commercial use without any obstacles of any kind. The hon. the Attorney-General says that this amendment as proposed now makes it so. I accept that explanation. It is to be hoped the Rent Assessor will accept that in that spirit. This is a proviso which is worrying me somewhat. In the second paragraph it states :

"...unless the Court is also satisfied that, having regard to all the circumstances of the case, less hardship would be caused by granting the order or judgment than by refusing to grant it....."

I think the Rent Assessor can use this clause and say "I have power to decide after taking all the circumstances into consideration that less hardship will be caused by granting or not granting this order." If that is so, if the Rent Assessor cannot reasonably take this into consideration, then I have nothing further to say. There are several cases based on this matter at the present time, and if this goes through creating a doubt again the position is going to take quite a long time to be remedied. I am not a legal man; the hon. Member for Western Essequibo is a learned Barrister and the hon. Member for Georgetown South is a Solicitor of the Supreme Court, and they have pronounced this

amendment as being quite in order, therefore, as a layman I am not going to dispute it. Then we have further, the hon. the Attorney-General says the idea of the Select Committee is to cope with this thing. I leave the responsibility therefore on those three hon. Members and on this Council that what the laymen have suggested has been put into legal phraseology and this Council is passing it with that intention.

The CHAIRMAN : I would like to ask a question which has been hinted but not made by the last speaker. If a landlord has two houses, can he, Mr. Attorney-General, demand both of them and turn the tenants out although he can only occupy one ?

The ATTORNEY-GENERAL : The answer to that goes back to the point I was making in answer to the hon. Member for Essequibo River (Mr. Lee)—the premises are reasonably required by the landlord for occupation as a residence. In other words, I cannot say "I have a house in Kingston and another in Charlestown and I want both."

The CHAIRMAN : He may want one for himself and the other for his wife !

The ATTORNEY-GENERAL : So far as that is concerned, unless the Court is satisfied that such circumstances are hereby declared to be included as set out in the proviso. In that case the man will have a good chance of getting both houses. Before I sit down, if you are interpreting the point by the hon. Member for Essequibo River, that is to say if a man wants it for himself which is for the purpose of his family, that is satisfaction and reasonableness of his application to be dealt with. The other aspect of it is more difficult.

Mr. C. V. WIGHT : The point made by you is a matter entirely dependent on the personal status of the two parties at the time. In other words, if a husband and wife are judicially separated by order of the Court, then the Magistrate would have to take that into consideration as reasonable requirement and probably grant him both houses. Further, if there is a separation which can prove that the hus-

band and wife are living apart because of personal differences, then I see no logical reason why in such a case the Magistrate should refuse the application for both houses, one for himself and his immediate family and the other for his wife and her immediate family. On the other hand it is quite unreasonable to expect, if the husband and wife are living together under the same roof and are considered in law to be one and the same person, and it is very improbable that the husband would be able to say "I want this house for myself and wife and also the other house for myself and wife." It is unreasonable and illogical. It seems the answer to your question will have to be premised by the fact of the personal status of the parties concerned. Are they one and the same persons as recognized in law ?

With regard to the point raised by the hon. Member for Essequibo River as to what is "member of the family," I suppose he is perfectly conversant with Stroud's "Judicial Dictionary" known to us lawyers. He will see there defined what is "member of family" as understood in law Does he want that extended or limited in any way? All the Magistrate has to do is to look in Stroud's Dictionary and see whether the person requiring the property for residence or business is a person who comes within the definition there. It seems to me you will be only putting a recognised legal definition into a statutory form, and I do not think it is necessary unless we intend either to limit that definition as is stated in Stroud's or to enlarge it.

With regard to the other point, it does seem there should be some limitation on the acquisition of property by a landlord either for business or a dwelling-house. Take the case of a well known big business, whether it be a drug store or anything else, are we to allow a concern, which is in a financial position, to acquire every place around for its business? Surely in such a case the Rent Assessor will have to say "Why turn out a poor struggling chemist to put your own business?" I think the point raised by the hon. Member for Essequibo River seems easily answered. He may find some difficulty, as I have already indicated, in the case of a lady

who desires to own premises in Georgetown for business purpose and is judicially separated from her husband. He referred to the question of trust, the husband holding the property on the wife's behalf. What more he wants than to tell the Rent Assessor "I want that premises for my own purpose, my own business." It does not matter whether it is the husband; it may be that he is in the dual capacity of husband and manager. It seems clear as daylight, the interpretation of the Ordinance as it stands with the proviso. We have already had the intention of the Members of the Committee and the assurance of the hon. the Attorney-General to that effect. We must have a limit on the question of a house being required for persons other than the landlord, and we must also have the reasonableness and suitability of the premises being required for the landlord. It is all very well to say and all very well to decide "I want a thing and I do not mind what is going to happen," but in this matter you have to look at it and see that it is fair and equitable to both sides. It seems to me that when a landlord genuinely desires a place for his own occupation, whether to reside in it or for business purpose, he can get it as the provision is worded. We do not want one landlord who is in a position to occupy ten places coming along and saying "I want to kick this fellow who is in competition with me out of my place." There is no reason why he should be allowed to do so and to monopolize a particular form of business.

There is also the other point which I may mention. With due respect to the hon. the Attorney-General, I do not quite agree with him when he says a business premises in Water Street may be wanted by yourself to carry on business and, because you are going to turn a man out and he cannot get other premises in Water Street, you cannot get it. They are two different things entirely. As regards reasonableness I do not think the Rent Assessor can say "I cannot remove Mr. A. or Mr. Y. who is carrying on business in Water Street because he will not be able to find another suitable site in Water Street." It just means within a reasonable area. I happen to carry on business in Water

Street and the owner desires the premises, he will have to find a place very nearly in juxtaposition to Water Street. It is very plain and straightforward.

With regard to the question of trust raised by the hon. Member for Essequibo River I do ask him to appreciate the difference in this case. He knows the Ordinance to which reference was made provides that when a property is in a person's name he obtains full title and, if you pay the affidavit fee, the wife's name can be put instead, whether it is acquired with the wife's money or it is a gift by the husband. He knows fully well the difficulty when Mr. A. owns a lot of money and property in his wife's name. He knows the difficulty in enforcing trust against properties not in the name of the husband or wife. We have had failures and one or two successes, and it does seem that is clear though the proviso may seem a little involved, but the law is generally involved and sometimes redundant.

The CHAIRMAN: I think this proviso on page 14 which we have discussed has been very well ventilated. No Attorney-General can produce an absolutely perfect draft, but the main intention of this Bill is quite clear. It is desperately needed legislation and very important. I ask Members to pass the amended proviso after hearing the able explanation given by Members of the Select Committee. With the possible exception of the hon. Member for North Western District (Mr. Jacob), who is not quite convinced, the other Members who are legal Members of the Select Committee, are quite happy about it. I think we have given this particular proviso a thorough ventilation, and I will suggest to hon. Members to pass it. If it is found later to be defective, then we would have to amend it. A great deal depends on the officer who has to deal with it, the Assessor, and the Government will appoint a very good one, we hope. The hon. the Attorney-General has that in mind, but I ask hon. Members to give it a trial. Pass the Bill through the third reading this afternoon because it is really important and, perhaps, very desperately needed.

Mr. JACOB: After listening to the hon. Member for Western Essequibo, he

has convinced me that this amendment has certain tags. The Committee decided there should be no tags whatever. The Committee decided that a landlord requiring a premises for his own use either as a residence or for business should get it. The hon. Member, who is a Member of the Committee, in his last speech admits there are certain tags on it. That is a little bad because the Committee did not decide that. The Committee said it must be free. The Committee was inclined to go a little further, and several Members of this Council are so inclined, that a man should get his premises for himself and for his family.

Mr. GONSALVES: On a point of correction! The hon. Member would remember, the point was that he must be able to get it without finding alternative accommodation. That is the point stressed by the landlords themselves—that they should not be made to go and look for other places for the tenants.

Mr. JACOB: I was coming to that. The landlord should get his own premises for members of his family, but the trouble about that is the definition of "family" because the majority of Members seem to decide against it. There was no question that the landlord should not get his own premises for his own use. I agree with Your Excellency that this thing should go through and, I trust, if and when it goes through and there are defects by way of interpretation, because it is a terribly long clause—I do not know why as I am not a lawyer, but clause 8 occupies more than five pages in this Bill—and there are so many subclauses and provisos, and the whole thing is very greatly involved. We know only too well the calibre of almost everyone in this Colony. While I am not casting any reflection on anyone, I do appeal to those responsible to put things a little more easy, a little plainer, so that the ordinary layman need not go to a lawyer to understand it. You go to a Barrister or Solicitor for an interpretation and he gives one opinion and when you go to another you get an opinion contradictory, and by the time you are through you are no wiser than when you started. We in this Colony should have something very much clearer. I think I could have written something to show that a man



wanting his premises can get it without all this argument here. So I trust after all this talk, that when this thing goes through we will have greater despatch of public and private business as well.

Mr. GONSALVES : Touching the last point made by the hon. Member as to a landlord wanting his premises and having to show reasonableness, it seems to me that a landlord wanting his place for his own use *ex facie* is a reasonable request. If he is not genuine about it and does not really want it for his own use, that is another matter. Whatever is provided in all these provisos, the last one is the governing one of the whole lot. It says : "*in any such case as aforesaid the Court asked to make the order or give the judgment considers it reasonable to make the order or give the judgment.*" The landlord is protected and saved the bother and trouble of finding another place for the tenant. That is the gist of it. The landlord is not burdened with the duty of going to look for a house for a tenant because of the *bona fide* that he wants the place for his own use.

With regard to the other point, the hon. Member for Western Essequibo (Mr. C. V. Wight) and myself did not bring it up as lawyers, and I had no reason to think that the hon. the Attorney-General who is a member of one of the Inns and also His Majesty's Legal Adviser to this Government would put before this Council for the use of the community a law which was not intended to be put and was not requested by the Select Committee. I, as a Solicitor, have always accepted advice given to me and if his advice is wrong I accept it. It would be a sad day to think that we have in this Colony an Attorney-General who would give Government bad advice.

Mr. LEE : Let us assume for the sake of argument that a landlord has three or four properties and he goes into one of them to live, but finds that he cannot get on with his son and daughter-in-law who are also living there; he then goes to the Rent Assessor and says "I want a second premises"—not for any other member of his family. My submission is, that the Court will be bound to give him because

under the law he wants it for himself. It can be argued, however, that after leaving the first house his son and daughter-in-law may go and live with him again and he can then rent the first house or sell it at a higher price.

I think hon. Members know that in Trinidad there are owners of property who allow them to become vacant because they are gambling in the property market. Some of these owners even live in boarding houses so as to be able to sell their properties at the first suitable opportunity, and I think the same thing can be done in this Colony also. Let us say that a man owns a property which he purchased for \$5,000; he goes into a boarding house to live and sells that property as soon as he gets a chance for \$7,000 making a profit of \$2,000. Does this Bill offer any protection against such a person ?

Mr. WOOLFORD : The hon. Member who has last spoken has submitted two propositions. In the first one he shows that some difficulty would be created if a man who lives with his son and daughter-in-law finds that he cannot live properly with them and therefore goes to the Rent Assessor and says he wants another property for himself. I presume the hon. Member means another property which is tenanted, and he seeks to enlist sympathy for that landlord because he has three or four properties and cannot get his son and daughter-in-law out of the one in which he lives. I join with you, sir, in suggesting to the hon. Member for Essequibo River (Mr. Lee) that it will require a Magistrate of a certain calibre to look after such matters. What is wanted is a correct interpretation and exercise of the law—not a laborious discussion but an adequate one — and that will be very necessary from what I have seen of the Officer to be appointed. I am glad that Your Excellency has found it possible to appoint an Officer, and it is necessary that that Officer should be a man of experience and intelligence of mind with a sound general knowledge. Because the hon. Member represents landlords he thinks he can dispossess a tenant for the benefit of a landlord by going to the Rent Assessor and saying "I want a house for myself because I cannot live

with my relatives," but he cannot do so to a man with an ordinary mind like myself. If the landlord wants the house for himself then the tenant would, presumably, be the kind of man who would like to have the house the landlord is vacating. That is where the Rent Assessor comes in; alternative accommodation will be there and the landlord will not be able to get possession of the one house unless he gives up the other. He will not be able to use the second premises for "Peko"—or whatever they call it in Trinidad. The Rent Assessor should say to the landlord "I will give you an order for the second house providing you, and your son-in-law and daughter vacate the other one."

If the status of a wife is one which forbids her living in the matrimonial home and she has been compelled to vacate it then, of course, she is a separate person in so far as residence is concerned, but a landlord cannot as an excuse say "I have two buildings and will send my wife and children to occupy one and I will occupy the other." He will have to give an excuse at the moment, and if it is that he wants a separate premises for his wife and children—and there again the calibre of the Rent Assessor will come in—he would not get an order for the tenant to vacate. I cannot see that any situation will arise in view of this clause. At the present time—and it seems to me to be proper—there are hardly two days in a week when I am not present for some time in one or other of the Magistrates' Courts, and I say without hesitation that one Magistrate cannot perform the duties of this office. Cases are pending there for two years and more in which no order has been made. The atmosphere is chaotic, and with every degree of truth I say that it is impossible on certain days to ascend the staircase or to pass from one Court to another. I would like to know where the accommodation is going to be found for the trial of these cases.

I do not know what arrangement Government proposes to make, but if you get a man to perform the duties—and I suggest he will have to be a whole-time Public Officer if he is going to be a Magistrate—no other work should be tacked on to him during any one of the three or four

days per week on which he will be taking these cases. You can, of course, make an arrangement whereby the work will be divided, but that must be done with care as I know the position of the Magistrates at present. Take the case of the Magistrate who comes from the East Coast at present; the arrangement is not convenient to the public and it is not reducing the number of cases for hearing in the City. I am making the point that the person appointed to exercise this discretion—something which he will have to do not daily but hourly—will have to be guided entirely by his own experience. And, that is one of the difficulties with Select Committees. A Select Committee is usually one which should be given some time for the examination of its problems but, unfortunately, that has not been so in this particular case. On the face of enquiries I find that the Select Committee did not have a single question put in examination or take any evidence from any member of the public as to what conditions are likely to arise, and so there was nothing to assist the draughtsman except their own views.

Mr. JACOB : I beg to correct that !

Mr. WOOLFORD : Before I made the statement I was very careful in asking for information on the point, and if I am wrong my informant is the hon. the Attorney-General.

Mr. GONSALVES : Does the hon. Member mean that no oral evidence was taken ?

Mr. WOOLFORD : Yes, and I am right. What the Committee had before it were certain representations probably made in writing by interested parties—they may have been tenants or landlords—but there was nothing like the evidence which should have been obtained from a person who, in my opinion, ought to have been asked, and that is the Officer who has been administering the Ordinance within the last few years.

Mr. C. V. WIGHT : I do not quite follow my learned Friend, the hon. the Deputy President. He is usually very clear in his remarks, but I do not know whether I am getting involved or he is getting involved. The Select Committee did

not just sit down and agree to make certain recommendations. They—

Mr. WOOLFORD: I will ask the hon. Member to state what his objection is and not make a speech.

Mr. WIGHT: The hon. Member said we had no oral evidence before us. Does that mean that we had no landlord or tenant giving evidence on oath? He said the Attorney-General could have got evidence from the Rent Assessor, but the Attorney-General did get it so far as I am aware. Whether it was in writing or as a result of discussion between the Attorney-General and the Officer concerned I do not know, but he did get information from the Rent Assessor.

Mr. WOOLFORD: I am not accepting the view that that refutes anything I said—that there was no oral evidence before the Committee. I made use of the word “representations”, but representations are not oral evidence. I will also make the statement that the Magistrates who have been administering the Ordinance have not been aware that any representations were received by the Committee, and I would like to know whether that is so. There is more than one Magistrate concerned, and the trouble in this Council is that representations are made in certain matters and we have no opportunity of examining them here. While I am not opposing the passing of this Bill today, I say let us make as tidy a job as possible. There are only two Magistrates concerned, and if they made representations to the Attorney-General I would ask whether the Select Committee had the benefit of them.

It does not matter how clever a Committee you get, there is always a chance of some suggestion being made after it has submitted its report that will be considered so important as to cause an amendment to be inserted to meet it. Here we have it from hon. Members that these words—“*any member of his family*”—might be ambiguous. The hon. Member for North Western District (Mr. Jacob) says he accepts the phraseology, but in his own mind he has some suspicion in the matter. Why is there such an eagerness to

doubt the validity of the phrase? We are dealing with legislation to correct a public situation, and while I have no idea what these two Officers did—I do not know what they told the hon. the Attorney-General—I know they will have many headaches in the administration of this Bill and that goes for the number of cases yet unheard. Can the hon. Member for Georgetown South (Mr. Gonsalves) deny that there are cases pending for the last two years?

Mr. C. V. WIGHT: And the reason is that it is too much work for one man.

Mr. WOOLFORD: I say again that that is not the only reason. The trouble in this Council is that when one makes a correct statement somebody always attempts to correct it. Is it too much work for one man when one case comes up regularly for two years? The reason is—well, I would rather not say. The Magistrate at times finds it difficult to attend that day, for reasons not contemplated in this Bill. Let the Bill go through, but I say do not tack any other duties on the Magistrate, because the present Magistrate sometimes has to put down his duties to deal with some other matter—some civil matter. Can any hon. Member dispute that? Further, I say in the presence of the hon. the Attorney-General who, as head of the legal administration, is supposed to see that this Bill is properly administered, that I hope Your Excellency will be able to find a man of the calibre suitable for doing so.

The CHAIRMAN: I shall not give my word until you are ready to administer it.

The ATTORNEY-GENERAL: The position is that, as hon. Members are aware, we are confronted with a certain amount of printing difficulties.

The CHAIRMAN: In other words, as soon as the Bill comes from the printers you will be ready to have it administered. Is not that so?

The ATTORNEY-GENERAL: Arrangements will be made to have it administered. So far as the views of the hon. the Deputy President are concerned, it is well known to all legal practitioners and,

in fact, to all members of the community who have to frequent the Courts, that the question of accommodation is a very difficult one. It is a matter whether the Council is prepared to carry out the necessary extension, to spend money so as to provide adequate accommodation.

The CHAIRMAN : Will the Town Council help somewhat ?

The ATTORNEY-GENERAL : That is another matter. Your Excellency will recollect that when Mr. Stafford was Rent Assessor the Town Council made requests time and time again for their premises, and as a result we had to move over to the Court. We asked them time and time again to allow us to carry on but, eventually, we had to vacate.

The CHAIRMAN : Are you going to ask the Town Council to allow you to go back again ? If so, the Mayor of Georgetown may be in a position to give some indication of your chances.

Mr. C. V. WIGHT : I do not think the Council as a whole will stand in the way or do anything to hamper Government in this matter, but will rather assist in this very burning question in any way possible. If it became necessary I do not see why the Council could not grant Government the use of the Town Hall, even temporarily. This Council is fully aware, however, of what is transpiring. We have made a recommendation that there should be a fourth Court in the Law Courts when the other courtroom becomes available. I think the Medical Department is to move into some other premises—the U.S.O. buildings or somewhere else. I have always understood since 1941 that efforts will be made to get the Medical Department to leave the Law Courts, and when that takes place there will be a fourth Court. Whether it will be occupied by the Rent Assessor or by a Judge-Magistrate, I do not know. I think the Town Council will be willing to help in this matter. I do not say, however, that it will allow any assistance given to continue for anything like four or five years.

The CHAIRMAN : Thank you. Mr. Attorney-General, what about the question of staff ?

The ATTORNEY-GENERAL : The question of officers to deal with the increasing amount of work is now being gone into and, as I have already intimated, it is hoped that as soon as Your Excellency gives assent to this Bill arrangements will be made to have not only one but two officers to deal with the matter of administering it—the one dealing with it now and someone else.

The CHAIRMAN : Both whole-time ?

The ATTORNEY-GENERAL : Until conditions return to normal. I think it will be appreciated that people are now having more recourse to these Courts than hitherto. As regards the Officers administering the Rent Restriction Ordinance, I may say that before consideration of the Bill was gone into I had a discussion with Mr. Stafford, and I also called in Mr. Browne so that I could get the benefit of their experience. I received no comments at that time, but after the Bill was published I received certain comments from the Rent Assessor and I mentioned them to the Committee. I mentioned to this Council also when the debate was taking place that I had received representations on behalf of the landlords from a firm of Solicitors, and I also received some from the hon. Member for Georgetown South, Mr. Gonsalves, who mentioned that he would be able to put them before the Council. This Government regards it as desirable that whenever a Select Committee is appointed that Committee should exercise every possible effort to obtain all the information which could be obtained on every aspect of the matter being dealt with, but there is no obligation to take evidence.

Mr. WOOLFORD : I rise to a point of order ! The hon. Member's suggestion is—though nothing that I said can possibly convey that meaning—that in every case or almost every case there should be oral evidence before a Select Committee. I did not suggest that, and the hon. Member has not got the right to suggest that I did. This is a matter of procedure and, on his own admission, he had comments from the Rent Assessor that might have been an expression of opinion. What I regretted was that he did not get evidence from per-

sons in the position of tenants or landlords *per se*, and not only the comments of the Rent Assessor as evidence before him. I strongly protest to the statement that there is no obligation on the part of a Select Committee of this Council to take evidence.

The CHAIRMAN: What has happened has happened. May we pass this Bill now?

Mr. GONSALVES: I want to give one little bit of advice which Government need not take. Government is not bound to take it or to listen to it. I have heard it stated that you are going to have an extra Rent Assessor appointed. I am going to implore this Government, if it wants to make a success of the scheme, not to have one Rent Assessor at the Magistrate's Court and one at the Town Hall. One may have a case fixed for the Magistrate's Court and another fixed for the Town Hall, both for the same time, and it is difficult to divide oneself between the two places. The landlord may be engaged in another case in the Magistrate's Court and cannot attend at the Town Hall, and as a result his case at the latter place is struck out because no postponement is allowed. Whatever is done I ask Government to see that some effort is made to make the scheme a success.

The CHAIRMAN: It has been moved that the proviso you have before you be substituted for the proviso as amended on page 14.

Question put, and agreed to.

*Clause 3—Application of Ordinance.*

Mr. WOOLFORD: May I direct your attention to a clause in the Bill? It is on page 3 of the printed Bill—clause 3. I was not present in Council when this clause was considered. To my mind it has no meaning at all. Subclause (2) says:

"This Ordinance shall not apply—  
(a) to a dwelling-house while let at a rent which *bona fide* includes payments in respect of board or attendance; or....."

I am sorry I have to remark it, but I do not understand it.

Mr. JACOB: To a point of order! This clause has been passed. Is the hon.

the Deputy President suggesting a recommitment of the clause?

Mr. WOOLFORD: If the hon. Member allows me, I desire to say one should hesitate before rising to a point of order. It is usual to give your reasons to ask for a recommitment. That is what I am allowed to do. The President knows I am going to ask for that.

The CHAIRMAN: I did not know that.

Mr. WOOLFORD: I am going to ask for that. The object of my rising is to find out what really is intended by that clause. It is supposed to be a re-enactment of a clause which was in Ordinance No. 23 of 1941. Members would find if they look at the parent Ordinance of 1941, it is only that section that does not apply to a dwelling-house let in good faith, etc. Here the idea of that section is reintroduced, but again it is meaningless because there is no indication as to whether the payments are being made to the landlord or to the tenant. What does it mean? I do ask that before we pass legislation we say exactly what is meant. I am saying this because I had drawn the attention of the hon. the Attorney-General to the Bill and also to the old Ordinance. If after, in view of what I have said, this Council wishes to pass this clause I have no objection. As it is it means nothing, and I know the intention was that it should apply to boarding-houses. If it is the intention of Council that this should not apply to boarding-houses, and that was the intention, then it is not being carried out by the clause. I ask you as President of this Council to see that it is made to apply to boarding-houses, because it is going to cause some trouble to a lot of people who are paying \$30 to \$40 per month — several of them in one house. If the landlord can give those persons notice you are going by legislation to affect a large number of people who are living in boarding-houses through economic pressure and are not better off than in rented rooms, and there are several such houses in the City. Why should not this legislation apply to them? It was the object of the first legislation, but this meaningless clause which is repeated here limits it in operation. No one can tell whether

it does apply to lodging-houses or boarding-houses. That is why I mention it.

The ATTORNEY-GENERAL : In 1941 when the principal Ordinance was passed, this section—3, subclause (3)—was passed as part of the Ordinance. It states : *“let in good faith at a rent which includes payments in respect of board, or attendance, or use of furniture, or to any premises used for business, trade or professional purposes.”* Subsequently the provisions of the Rent Restriction Ordinance were extended to business premises in 1944. In the amending Bill all that we have done is to substitute the words *“bona fide”* for *“good faith”*. The whole question is whether boarding-houses, or hotels, or places of that nature should have some sort of restriction in connection with their tariffs and their charges. I may say to hon. Members that in Trinidad that matter is dealt with under a special Ordinance, which was passed with reference to service premises which include hotels. In that provision there is exemption of hotels by the Rent Board, if the Board is satisfied with the tariffs. I believe hon. Members know the tariffs are put up. What, I think, the hon. Member on my left (Mr. Woolford) is driving at, is that there should be legislation to protect those who have to live in hotels and boarding-houses. That matter, as I have told him already, is receiving attention but, in view of the fact that we have this here following along the lines of the other Ordinances— and that is a wide matter in so far as tariffs are concerned—it is not thought desirable to include it in this particular Bill.

The CHAIRMAN : Can I ask you one question ? In your opinion should there be some control of hotels and boarding-houses not included now in that section 3 ? You will not advise that section 3 should be amended to include them as you wish to do it in another Bill.

The ATTORNEY-GENERAL : Yes, because it will be too complicated. I do not think it will be desirable.

The CHAIRMAN : I think the Deputy President's point is very important and, I think, we should get on and cover it with another short Bill soon. With that assur-

ance, the Deputy President will not worry to recommit the clause.

Mr. WOOLFORD : To tell the truth I am of the opinion that as long as this clause remains in the Bill and the tenants think it applies to boarding-houses you are going to have a number of cases. I was wondering whether it would not be better to delete it. If you allow it to remain you would increase the work of the Assessor. If the legislation is going to be early, then I suggest we can allow it to remain and necessarily amend this in so far as boarding-houses are concerned. Boarding-houses are different, as they are not licensed. Hotels are on a different plane altogether. There is a distinct difference in status between a boarding-house and a hotel. I am willing and ready to meet the hon. the Attorney-General, because I know how difficult it is in his opinion and that of his predecessor in office. There is no provision for boarding-houses, although it is intended, and hundreds of poor respectable women are affected.

The CHAIRMAN : I suggest that we deal with it in a separate Bill.

The Council resumed.

The ATTORNEY-GENERAL : With your approval and surely of Members, I will be glad to have the third reading postponed to next week.

The PRESIDENT : I gather the hon. the Attorney-General wants to be sure of the amendments before the third reading, which is therefore postponed to the next meeting with the approval of Members.

Third reading of Bill deferred.

The PRESIDENT : The hon. the Colonial Treasurer will take his motion, and then we will return to the second reading of that important Bill—the Landlord and Tenants Bill.

Mr. C. V. WIGHT : I do not think it would be fair to the Officer concerned as Rent Assessor. It is intended to say that the Officer has not performed his duty faithfully and well. I think it should be put on record that those of us, who are constantly in touch with the present

Officer who is administering the Rent Assessment Ordinance, are perfectly satisfied that he has done a good job of it and has exercised his discretion usually very well.

Mr. LEE : I would like to endorse the hon. Member's remarks.

The ATTORNEY-GENERAL : Personally I do not think any reflection was being cast on the Officer who is now administering what is admittedly a difficult Ordinance. I think, as the hon. Member has said, he has done very well.

#### GRATUITY TO MR. RAMLAGGAN

The COLONIAL TREASURER : With the approval of Members I beg to move the following motion : —

‘That, with reference to the Officer Administering the Government's Message No. 14 of the 7th of 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.’

As Your Excellency's Message indicates, Mr. Ramlaggan, who is now 63 years of age, has served for over 25 years and had to retire in circumstances of serious ill-health. He is not a Government employee, but was employed in connection with the Canals Nos. 1 and 2 Drainage Area, his salary being normally met from the rates paid by the persons liable in that Area. Accordingly he is not entitled to superannuation benefit under Government Regulations, but his case is strongly recommended by the Central Board, having given exceptional meritorious service. He was subjected to exposure in all kinds of weather due to the nature of his duties which accounted for his ill-health. I may also point out it is a case of severe hardship. The Board, therefore, felt justified in approaching this Council and asking that he be treated on the same basis as a man eligible for superannuation. Had he been in regular Government employment he would have been entitled to a gratuity equivalent to one year's salary. I do hope that the Council would pass this motion in order that this case of good work and severe hardship should be properly dealt with. I beg to move the motion standing in my name.

The COLONIAL SECRETARY seconded.

Mr. ROTH : While I am in full sympathy with the spirit of this Message and I propose to support it, there is one point I do not understand. Pararaph 3 of the Message says :

“Had Mr. Ramlaggan's wages been paid from public funds instead of drainage rates, he would on retirement have been eligible for superannuation, etc.”

As he has been paid from Drainage rates, why is the gratuity not paid from Drainage rates ? Why should it be paid from public funds ? Why should not that body which employed him pay the gratuity ? That is the only point I desire to raise.

The COLONIAL TREASURER : The answer to that question is very simple. The disposal of the rates levied by the Board is very clearly set out by law. The Drainage Board can only apply the rates for the purpose of maintaining works in the area, including the payment of the wages of employees. The Drainage Board has no power whatever to use the funds collected as rates for paying pensions, and the hon. Member will realize that we cannot include in the law such a power without some serious consideration and without approaching the bodies concerned, the Village Districts, to obtain their consent. This is a special case and cannot be met from the rates, and the Board thinks it desirable to approach this Council to treat it as such.

Mr. ROTH : I thank the hon. the Colonial Treasurer for the explanation.

Question put, and agreed to.

Motion carried.

#### LANDLORD AND TENANT BILL, 1947.

The ATTORNEY-GENERAL : I beg to move the second reading of the following Bill intituled —

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

It will be within the recollection of hon. Members of this Council that some

time in 1939 a Committee was appointed by the Governor of that time, Sir Wilfrid Jackson, with the following terms of reference—

- “(a) to consider generally and to report on the desirability or otherwise of amending the provisions of the Rent and Premises Recovery Ordinance, Chapter 92, with special regard to the question as to whether any goods and chattels, other than those of a tenant, should be subject to distraint and also to the procedure for the recovery of premises;
- (b) to consider and to report upon the question of enacting legislation so as to specify what covenants, if any, shall be implied in a contract for the letting of a house or room.”

The Committee was constituted by Mr. A. V. Crane, who was then Senior Magistrate, as Chairman; the Hon. Francis Dias, the Hon. E. G. Woolford, Mr. John Bollers and Mr. A. A. Thorne. The Committee submitted their report some time in 1939—22nd June. They dealt with several matters relating to the relationship of landlord and tenant and the report, which was a very full and careful one, has been used for the purpose of a basis for drafting the legislation which hon. Members now have before them. It will be within the recollection of hon. Members that during the debate on the Bill—the Letting of Houses (Implied Terms)—the hon. Member for Georgetown South (Mr. Gonsalves) suggested that Mr. Crane, who was then acting Solicitor-General and had been Chairman of the Committee, might with advantage draft the Bill. I am happy to say that Mr. Crane drafted the Bill which the Council now has before it, and it was completed just a few days before he left this Colony to take up his appointment as a Judge in the Leeward Islands.

The Bill declares the kinds of tenancies existing in the Colony and the law applicable to them, and I may observe that apart from the Common Law of England which has proved inadequate in modern days there is no law affecting the relationship between the landlord and the tenant. The Rent and Premises Recovery Ordinance, Chapter 92, deals solely with the

recovery of rent where it does not exceed \$240 per annum and the possession of premises where the rent also does not exceed \$240 per annum. In other cases it is difficult to know what are the rights of the landlord on the one hand and the rights of the tenant on the other hand, apart from the terms of any expressed agreement which may have been entered into between the parties. Questions are always arising which require settlement on this subject since the Civil Law of British Guiana, Chapter 7, and it will be appreciated that the only means of accomplishing this is by statutory provision.

Further, the Bill specifically declares that the Common Law of the Colony relating to tenancies is the Common Law of England, and also proposes a number of provisions most of which have proved throughout the years to be necessary in this Colony. Those provisions have been drawn generally from the Law of Property Act, 1925, and the provisions of the existing Rent and Premises Recovery Ordinance have been included in the Bill to include rents not exceeding \$480 per annum. \$240 per annum is now regarded as being too low since the Standard Rent has been very appreciably raised. That was fixed in the year 1903, and conditions have changed during the years which have elapsed. The provisions of the Letting of Houses (Implied Terms) Ordinance have been incorporated in the Bill so as to get a statute law relating to landlord and tenant in a single Act. Hon. Members will recollect that when that Bill was before this Council, the Council was informed that when a comprehensive Bill is brought before Members then those provisions will be incorporated in it and the Ordinance will be repealed. That is being done by this Bill.

Further the Bill seeks to introduce a number of special features to meet abuses which occur, committed both by landlord and by tenant. It seeks the registration of landlords so as to ensure that responsible persons are appointed to represent the landlords. It requires a landlord to provide a rent book for tenants' payments of not exceeding \$5 per month. The person receiving the amount must enter same



therein. I think hon. Members agree that such a provision is necessary. The main objective is that the laws relating to Distress and to Goods are consolidated in one enactment of the Statute Law regulating the relationship of landlord and tenant. Hon. Members will notice that there is a comparative table at the end of the Bill which is part of the Objects and Reasons, and, I hope, that table will be of use to Members, particularly the legal Members.

You will see that clause 14—if I may refer to the more important clauses—deals with things privileged from distress for rent, while clause 15 deals with fixtures of the tenant. It is clear from this clause (15) that fixtures do not belong to the landlord but to the tenant, and the clause is retrospective as from January 1, 1917, when the Civil Law Ordinance, Chapter 17, came into operation. Clause 16 deals with the question of attornment, and attornment is only required when there is a change of ownership. That question has often given rise to difficulty in this Colony. Clauses 20 and 22 provide for the recovery of rent by distress in cases where the rent does not exceed \$40 per month. At present the amount—the maximum—is \$20 per month, and these clauses re-enact similar provisions in the Rent Recovery Act, Chapter 92. Clause 33 deals with distress for rent exceeding \$480 per annum, and only a bailiff to whom a certificate to act as a bailiff has been granted by a Magistrate may levy distress under this clause. Clauses 36 to 43 make provisions relating to the landlord's right of distress for rent, while clause 44 deals with the conditions implied in the letting of houses—the landlord's duty to repair and so on. This clause re-enacts the provisions relating to the letting of tenement houses which were passed last year.

Clauses 50 to 64 deal with miscellaneous matters, the more important being clause 56 which provides for the appointment of certified bailiffs, clause 57 which deals with the registration of agents, clause 58 which deals with receipts or acknowledgments to be given on payment of rent, clause 59 which compels the landlord to provide a rent book in respect of every tenant where the rent for the year, month or week does not exceed \$5, and clause

60 which deals with the position of a landlord who removes any part of the tenement during the subsistence of the tenancy. Then there is a schedule setting out the various forms which are to be used. I think I have dealt with the matter rather fully, and I now beg to move that the Bill be now read a second time.

Mr. WOOLFORD seconded.

Mr. JACOB : I think the Law Officers should be congratulated for endeavouring to present Bills upon Bills here in an effort to improve conditions and see that the welfare of the people is being protected. But, I think, I have already stated that these measures, which are intended to benefit the people, in the spirit of the law will not do so. We have just passed the Rent Restriction Bill which bristles with all sorts of difficulties. It has been suggested here that two Rent Assessors should be appointed because the work has increased and one person cannot do it, but this Landlord and Tenant Bill is going to increase further the judicial work in the Colony. I am certain, sir, that all these conditions have been aggravated by certain things and particularly by our inactivity in this Colony. We have passed certain legislation here about rural housing, urban housing and so on, but all these things are still in abeyance. The whole trouble is that there is not a sufficiency of imported and local materials, while there is an insufficiency of houses and so on. Although these things are intended to alleviate those difficulties and improve conditions I am afraid we will have to go a little further if we want to do so.

I am not against these measures—they have my whole-hearted support—but I do not think they will bring about the desired effect. We have to do something more, and I am hoping that something of a practical nature will be started early. We can do more by encouraging people to come in and build their own houses, but I am afraid that the restrictive measures in the Bill that has just gone through and in this one are too heavy. For instance, certain landlords are not going to bother themselves to improve present conditions because they consider that they are being hampered in various ways. They feel that the law is there and they will do everything

possible to protect themselves. Immediately anything happens they will just put in an appeal. There are many cases now to be heard by the Appeal Court and, I think, we should approach these things in a different way.

I hope the Select Committee will go through this Bill as was done in the case of the Rent Restriction Bill and, perhaps, the hon. the Attorney-General will be the Chairman of this Committee also. The fact is that these things have to be done with a considerable amount of dispatch. I am opposed to a Select Committee receiving evidence and inviting people to appear before it. I think the people ought to make definite representations to their representatives and get them to put things before the Committee, but I do not think individuals should go before a Select Committee at all. The few Select Committees I have had the honour of serving on have reported in a matter of weeks, and whether you receive landlords, tenants, Rent Assessors, members of the public or else these things should be dealt with urgently.

I am going to refer to certain clauses but I am not going to deal with the Bill clause by clause. At the present time a tenant cannot remove fixtures from a building he has rented except with the permission of the landlord, but this Bill seeks to give tenants the right to put in fixtures and to remove them. That will create many differences of opinion which will all end in the law courts. I think the position should be clearly defined, that a tenant who wants to erect fixtures should get permission to do so in writing, so that when he removes it would be clear as to what he should take away. I think, therefore, that clause 15 should be amended so that a tenant can erect fixtures with the consent of the landlord in writing.

As regards clause 25, I see it is intended that if a tenant is removing his furniture in a clandestine manner he can be stopped, but I was told today that one can only stop cars and carriages. If a tenant chooses to hire half a dozen people and put the furniture on their backs you cannot stop them. Therefore, if this clause is intended to protect the landlord so that a tenant should not remove his furniture

in a clandestine manner, it should be made watertight. There should be no loopholes in the Bill. As regards clause 44 (4), it is suggested that if the health of an inmate of any house is affected by reason of a breach by the landlord such inmate shall be entitled to recover damages from the landlord, but under clause 61 (2) only the tenant will be liable for certain damages and not any inmate of the house. I think it is clear that if a landlord is liable for damages to any inmate of a house, any inmate should be liable to pay damages to him for any damage caused to the premises. In the Wortmanville Housing Bill—No. 12 of 1946—I see that a tenant cannot do certain things, but those are not provided for in this Bill which deals with the ordinary landlord. I think it is only fair that what applies to Government and Municipal buildings should also apply to the premises of private landlords.

Further, I notice that under clause 46 the Magistrate or whoever is going to be responsible for the administration of this Bill when it becomes law will have a very wide discretion. He may order certain things, but that is going to lead to further litigation in the Appeal Court and other people will be involved. I think this part of the Bill should be made especially clear, so as to give the people exactly what they want and very little discretion left to the presiding Magistrate. In certain places it is stated that he "*shall*" do such and such a thing, and in other places it is stated that he "*may*". I think the wording ought to be such that there will be very little room for appeals. In clause 46, I think a new sub-clause—(6)—should be inserted to enable a landlord to collect rent that may be due to him while an appeal is pending from an action in the Magistrate's Court. Such a clause has been put in the Rent Restriction Bill on the recommendation of the Select Committee. A tenant may be given notice to quit and, if the matter goes before a Magistrate, he may decide not to remove even if an order is made against him but to appeal. He may also refuse to pay his rent in the meanwhile, and sometimes an appeal is not heard for two or three years. Certain appeals have been pending for over two

years and in these circumstances a tenant will be able to remain on the premises all that time without paying rent. A tenant should not be given the right to owe rent and still remain on the premises belonging to the landlord. If a tenant is unable to pay his rent he should not have any right of appeal at all. If he has certain grievances and does not want to remain on the premises, I would have no objection to his removing so long as he pays the rent fixed by the Rent Assessor. But if he is unable to pay his rent he should not remain on the premises and give notice of appeal. The appeal may take two or three years to be heard, and in the end the tenant may withdraw it and benefit to the extent of having lived in the premises all that time without paying any rent. The Bill should be so worded as to prevent people who are so inclined from abusing the law. Perhaps that will not suit two or three of my legal friends here, however; and I see two of them smiling now. It is very easy to lodge \$25 and hold up a matter sometimes for two or three years, but a tremendous amount of inconvenience is often caused thereby. These are the things I will object to so long as I am a Member of this Council. I am going to object to the possibility of interminable appeals. I think landlords are entitled to be protected.

The CHAIRMAN : Are you suggesting that Ordinances should no longer be provided by legal officers of Government ?

Mr. JACOB : No, sir; I am suggesting that we should block the loopholes, and we are making good progress in that direction. The clause I am talking about was inserted in the previous Bill, and I do not know if I may take credit for making the suggestion and getting it adopted. As regards the introduction of a rent book, I think it is a wise suggestion. Only today certain people in this City indicated to me some of the difficulties which are being experienced in the collection of rent. To my mind, I think, the introduction of rent books is a wise suggestion, especially in cases where people are paying small rents. I trust this Bill will be passed and that the Select Committee will be able to go into the whole matter. It is no reflection on those concerned because it is a question

of rent positions — tenancies and so on changing from week to week, if not from day to day—and with the measures being adopted now I think the present state of affairs will get worse unless something is done. It is not the fault of the draughtsman, however, that the position is getting worse. The Rent Assessor's Court is blocked from day to day, and we have been told that two Assessors should be appointed, but how that will be done I do not know. You, sir, have to look after the Administration; you have legal talent behind you, but how you are going to deal with the matter I do not know.

Mr. C. V. WIGHT : The hon. Member was wondering why I was laughing. May I suggest to him why I was laughing ? He held in his hand a document and was reading from it, although he was hiding it behind something else. I am not a prophet, but I am making the suggestion that the same person who spoke to him also spoke to me; I gather that from the trend of his remarks. As regards the Bill itself, if we are going to make the law and administer it ourselves, then there would be no use for the law courts, and the lawyers would have to become commercial agents perhaps—a very lucrative business—or become farmers. So long as there is law, however, there will be differences of opinion. We have differences of opinion here on some of the most elementary principles, and we will always continue to have them in whatever we do here. I agree with the hon. Member that this Bill needs careful examination by a Select Committee, but I do not see why the Common Law should be set aside. There is a section in our law which enacts that the Common Law of England is the Common Law of this Colony and, I think, that is one aspect which should receive the attention and, perhaps, the sympathy of the Select Committee.

I would also like to say that I do not agree with the hon. Member who said that he saw no reason why people should give evidence before a Select Committee. I have been a member of Select Committees before, and I see no reason why people, if they so desire, should not be allowed to make representations or give evidence before a Select Committee. That is my

opinion and, unless I am convinced otherwise, I see no reason to change it. I can see a disadvantage, however, because a Select Committee may find itself having to go into protracted details from those persons who desire to make representations before it, but I do not agree with the hon. Member, who was reading from a document, that persons should not appear before such a Committee.

Mr. JACOB: I rise to a point of order! I was not reading from any document at all. A document is here, but I was reading from the Bill. Surely if anyone chooses to prepare a document for me to make a speech in the Legislative Council, he would be quite at liberty to do so. Perhaps he will be able to do so better than I can; perhaps he will be able to suggest the views which I should put forward in a particular matter.

The CHAIRMAN: Perhaps that is the landlords' view.

Mr. WIGHT: I have already stated that I have some idea of the document and the views referred to by the hon. Member.

Mr. JACOB: I rise to a point of order! May I ask the hon. Member whether the document he has in his hand has anything to do with the insertion of a new clause between 46 and 47?

Mr. WIGHT: I see that there is something about the insertion of a clause after clause 47. Perhaps I may compare it with the hon. Member's later.

The CHAIRMAN: This discussion between the two hon. Members reminds me of the days when I was a boy at school and there was a discussion about cribbing. (Laughter).

Mr. WIGHT: I agree that this matter should be put before a Select Committee, but I do not know whether this Council will decide it. The hon. Member thinks it is a breach of privilege for Members of this Council when sitting in Select Committee to take evidence from persons who come before them. That is a matter for the Committee and, no doubt, a Select Committee will give it due consideration. If I am a member of the Committee I have

no objection to those things being put forward for due consideration. I do suggest that we have a Select Committee appointed to consider and report on the anomalies that we had on the Rent Restriction Ordinance. The landlords desire this Bill. It should have been put forward before, but owing to unforeseen circumstances it could not be done. The tenants also want this Bill urgently. I think the Committee should sit and report on it as expeditiously as the one on the Rent Restriction Bill.

Mr. WOOLFORD: I would like to say something of the operation of the past law which this Bill is designed to put out of action. The hon. Member for North Western District (Mr. Jacob) made some reference or suggestion that this form of legislation is a lawyers' paradise. I have no doubt that as a layman he has come to that conclusion by what he has heard. As the result of the cases that go before the Rent Assessor's Court, it is thought to be a lawyers' paradise. The Magistrate cannot cope with the cases, and any lawyer who can afford to go to the Rent Assessor's Court has to appear there so often in a matter. It has never been the practice for lawyers to appear in such matters as recovery of possession of tenement rooms. Very rarely in the course of my fifty years' experience have I ever appeared in such matters. If the hon. Member goes to the Police Court he would find a long line of people waiting for the Magistrate just to initial their summonses. I know peculiarly well the duty of signing possession warrants by the Magistrate can easily be done by a clerk of the Magistrates' Office. Why that has never been done has always been a wonder to me. Cases of importance have been delayed whilst the Magistrate takes an hour or more merely to sign warrants. It is done perfunctorily. I mention that in order that the hon. the Attorney-General should know that this additional legislation will not increase the work of the Magistrate, but it will simply mean that he will do, if he is allowed, the same work that he has been doing. In a good many cases there has never been any necessity for a Magistrate to look into the complaints.

Most landlords are represented by agents, and most landlords of this City collect their rents through agents and, therefore, there is no necessity for them to attend Court and they do not attend. In other cases such as rent assessment cases, it is the landlord's duty to be there and to defend in the matter, and occasionally he employs a lawyer. This is not a lawyers' Bill at all. The hon. Member must get that out of his mind. This is a Bill that will help the poor people who occupy a tenancy, especially those who pay rent. That Rent Book is my suggestion, and it is going to be a valuable protection for both landlord and tenant, because we have had evidence before us as the result of which the Committee felt very strongly that these poor people, who are in occupation of premises, had paid their rents but had not a receipt to show, and on examination of the counterfoils we saw hundreds relating to the rents paid. I know that, and as a result of that examination and with our experience we were able to get inferential evidence that those people had paid their rent otherwise they would have been turned out. The hon. Nominated Member, Mr. Critchlow, knows that perfectly well. I ask hon. Members to allow that provision for a Rent Book to remain. The tenant is given a book and does not depend on a receipt; if he loses that book he loses his heritage. Therefore he should be most anxious to keep that book and not depend on the landlord to produce his counterfoils and not give receipts.

I only raise that so that there should be no mass examination of the people by the Committee which the hon. Member thinks is the best way. The value of a Select Committee is that it has power to summon anybody in this community before it and to administer an oath. It is absurd to think that the privilege of a Select Committee can be dismissed in such a way. I speak quite regrettingly about the last Committee, not because I do not consider the report valuable or the investigation, but what I know — although the hon. the Attorney-General would not like me to say it—there were those who were in a position to give valuable information and they did not give it. The hon.

the Attorney-General knows that I am speaking the truth. Therefore I said that they took no evidence but just submitted their own views. That is why I am opposing the appointment of a Select Committee again. There is no necessity for it on a Bill of this kind. You should accept my experience in the matter, which is honestly given and given without any idea of advantage. I am not doing that because I am a lawyer. No lawyer has any interest in this Bill. The parties appear as it costs them little to appear and, therefore, it is not a lawyer's paradise. It is largely a social matter, and to a great extent the Committee's recommendations are introduced in this Bill.

There is one thing. The hon. Member seems to think that appeals impose some impediment on the occupation of premises or assist the tenant in not paying his rent. He is entirely mistaken. These are cases for possession or cases in which the tenants are sued for rent. Under the present legislation if a person is two weeks or two months in arrears, according to the nature of tenancy, the landlord has the right to get an immediate writ of execution, and even if he does he is prevented from levying in distress. The hon. Member seems to think, and probably has been told, that means the tenant can sit down *ad infinitum* and not pay rent until the appeal is heard. I can assure him that cannot happen. The tenant has to continue to pay his rent which is due and payable, notwithstanding what is the difference between the landlord and the tenant. In other words, there is no law which makes it anything but obligatory on the tenant not to pay his rent. In other words, the landlord does not suffer by the right of appeal. I am surprised at the hon. Member suggesting that in a matter of this kind affecting the personal relationship of people there should be no appeal. I always thought he had very wide socialistic sympathies.

Mr. JACOB : Again I say the hon. Member has not understood me.

Mr. WOOLFORD : Please do not suggest in a matter of this kind there should be any right of appeal, because the hon.

Member has been misinformed about some case. There are no appeals on matters of this kind. I will not delay the Council any further. I do ask that the hon. the Attorney-General will not support the suggestion of a Select Committee. I do not think there is any necessity for it. I think you should have the ordinary committee. My recollection is this: It will be a surprise to Members to know how very few tenants attended the meetings of that Committee, because the only thing they suffer really is the fact that under the present law some of the things which are their personal property are subject to levy, I am sorry to say, our people are so poor. It is perfectly true what I am going to say. In these days, perhaps not so much today, the only things the landlords have to levy on are the things precluded from distress under the law, such as bed, tools, utensils, etc. Therefore they cannot levy and they cannot get the tenants out. On the other hand, the tenants find it very difficult to get premises because they cannot afford to pay the rent in advance. We will not go into details, but I happen to know that the provisions of this Bill make the position very simple on both sides.

Mr. GONSALVES: I have heard reference made to Government bringing this Bill at last, and I join in that compliment to Government. I would like to compliment Government on having succeeded in getting one of its officers, who was Chairman of the Committee on an important matter like this whose recommendations enabled us to have this Bill, to draft the Bill before he left the Colony. The usual practice is that the "buck" is usually passed on. A suggestion is made and left for the other fellow to tackle and put into shape. In this case, Government was able to get the man who had the responsibility of investigating the matter to draft the Bill and leave it behind with such notes and comments as he had. It is only right that he should have been able to do it, as he was Chairman of the Committee and had the evidence taken by the Committee on the various points which were being considered. Therefore I would like to offer Government further compliment on having succeeded in that direction.

There are certain provisions in this Bill—I indicated them to the hon. the Attorney-General—which, I think, will need consideration, and if it is the desire of Government, as I said on the previous Bill, to have time saved in getting those clauses hammered out, the only way it can be conveniently and properly done is by having it referred to a Committee. If Members do not like the word "Select," call the committee by any other name. Personally I think some other Members of Council may have a try at this kind of legislation. The last Committee had at short notice to attend meetings with the idea of getting the Bill through as early as possible. If you were not there you got a telephone call telling you that the Attorney-General was waiting on you. I personally would like to be relieved from attending these meetings, but there are certain clauses in the Bill which need consideration. The hon. the Deputy President intimated about the long line of persons every week at the Magistrates' Court with applications for possession. Like myself on many occasions I have heard the view expressed that it was hardly reasonable to have practitioners waiting in Court for cases to be tried, because the Magistrates had to initial documents before them in respect of persons who owed two months' rent or had been given notice to leave and would not leave the premises.

I have always advocated that the Chief Clerk, who is a Justice of the Peace, should be the person to sign and consider those applications for possession. I had the further view that he should be in a position as a Justice of the Peace to make the order for possession where there are consent orders, but where any legal question arises with regard to the application then it should be transferred to the Magistrate for him to try the issue. Formal application for distress even, as long as on the face of the document it appears to be valid, may be dealt with by the Clerk. The agent of the landlord is the one who is taking the responsibility for swearing falsely which is perjury. That may well be amended in the Ordinance and so give relief in that direction. In practice today these applications are

heard once a week—on Wednesdays. Why should it be once a week only? If the Chief Clerk has authority to do it, those applications can be taken at any time. The same thing applies to warrants. I think a good deal of time would be saved if that is considered and given effect to, with many other suggestions which can be made. It is extremely difficult when a clause comes up in Council to move an amendment and have all Members of Council speaking as to whether the clause should be amended or not. I certainly agree with the suggestion that this matter be referred to a Committee. I do think that should be done.

Mr. EDUN : It has taken this Government pretty nearly seven years to bring forth this Bill. When the hon. the Attorney-General mentioned previously that it would be a comprehensive Bill to deal with the relationship of landlord and tenant, I thought it would have been comprehensive indeed, but I am disappointed in not finding that. This Bill does affect the tenant at will, thousands of them who are living on the sugar estates of this Colony. What I find in this Colony is the tendency only to deal with city, towns and villages and to leave the settlements and plantations to themselves. So long as human nature is what it is, human behaviour is the same, and there shall be need for these measures in order to be equitable between man and man, but in this Bill what I find is simply this : It deals with but two-fifths of the population of British Guiana and leaves the other three-fifths alone to themselves. Perhaps it has escaped this Government.

One reads day after day the frequent occurrence on sugar estates of the eviction of employees. Why should not Government think of providing in the Ordinance for the tenants at will in order to bring an equitable measure of solution in the relationship between landlord and tenant? I see no provision here to deal with three-fifths of the population of this Colony and, I think, this Bill ought to go back to a Select Committee to provide amelioration for those people. Evictions are so frequent on sugar estates as to result in grave disorders, that I cannot comprehend why it has escaped the attention of Government.

For that reason I will support the suggestion that this Bill goes to a Select Committee, but with the understanding that the Tenants at Will Ordinance should be examined and evidence taken from the sugar estates' managers, drivers and workers in order to arrive at a common understanding amongst them, because strictly speaking I do not like the tenor of things on the sugar estates at all. This Bill does not affect them.

I am a layman and not a lawyer, but I happen to read through the provisions and to see many many things there which ought to be amended. I think certain amendments are very much needed in order to give equitable consideration to tenants altogether. As we go along in the examination of the clauses I shall be able to suggest certain amendments, as far as I see, which will be beneficial to the tenant. I do not want to deal inequitably against the landlords, but in the case of two sections of the population the landlords are better off. It is a question of accommodation for human beings on the one hand and private motivation on the other hand. Why have hon. Members of this Council not to consider how to effect accommodation for a vast number of people but for a few who can afford to buy properties and rent them out to their fellowman? I am very much disappointed in this one fact that I see nothing here that will give some measure of relief to three-fifths of the population of this country, and I repeat that in order to get the attention of Government. I support the idea of a Select Committee and, I hope, it will be broadened out and provision made to control the relationship between these two very important sections of the population. With those remarks I will not say more until the clauses are examined.

Mr. LEE : Your Excellency, if I get an indication from the Chair as to whether there will be appointed a Select Committee, which I heartily support, I would not say much because I have a letter from the Trades Union Council which asks me to request certain amendments and which I will forward to the Select Committee. If there is no such indication I would have to address the Chair in respect of those amendments.

The PRESIDENT : prefer to adjourn the Council until 2 p.m. tomorrow and hear what other Members have to say.

Further consideration of the Bill deferred.

RESIGNATION OF GOVERNMENT MEDICAL OFFICERS.

Mr. LEE : I would like to know whether Government can make an announcement or give some explanation in respect of the situation between the Doctors at the Public Hospitals and Government. The public are very much concerned, especially those who have friends and relatives as patients at the Public Hospital at present. They would like some Government pronouncement in respect of the matter so as to be

guided as to what is going to happen. The public do not know exactly what is the position and are very much concerned about it. I would be glad if either this afternoon or tomorrow you could make some announcement, as it would go a good way in relieving the anxiety of the public in this matter.

The PRESIDENT : I am prepared to make an announcement tomorrow. The Doctors are publishing some statement through the B.P.I. and the hon. Member will be able to see what they have to say. I will make a statement, but I cannot say whether it will relieve any anxiety.

The Council adjourned to Friday, 14th March, 1947, at 2 p.m.